

## **Promoting Diversity in the Courts: Chief Judge Rowan D. Wilson**

John Caher: Welcome to Amici, news and insight from the New York Courts. I'm John Caher.

For today's Diversity Dialogue segment, we are honored and humbled to welcome to the program the Honorable Rowan D. Wilson, who was recently sworn in as the 39th person in state history to formally hold the title of Chief Judge and the first of color. Chief Judge Wilson, who took office as Chief Judge on April 19th, had served as an associate judge of the court since 2017.

A native of California, Judge Wilson has a bachelor's degree from Harvard College and a law degree from Harvard Law School. He clerked for a federal appellate court judge and spent most of his career practicing securities, intellectual property, and antitrust law with the Manhattan firm of Cravath, Swaine & Moore. His clients included IBM, Time Warner, and American Express. He was the first ever Black partner at Cravath, a firm that dates to 1819.

Much has been written about Judge Wilson's jurisprudence, and he's publicly revealed a bit of his administrative agenda. So rather than mirror what's already been done, I'd like to take this opportunity to look behind the curtain, beyond the robes, to get to know Judge Wilson on a more personal level.

Chief Judge Wilson, it's an honor to have you on the program. Let's start at the beginning, if we could. Tell me, if you would, about your parents. What did they do? How did they shape you?

Chief Judge Wilson: Sure. My parents were both educators. They met actually in the graduate education program at Boston University in the '50s. My dad was getting a master's degree, and my mom was getting a Ph. D.

My mom was totally blind. The story about how they met—some people react very charmingly and some people react like, "Gee, it doesn't speak too well of your dad" — but I gather that he liked her but didn't maybe have a normal way of introducing himself. He was also very much a practical joker.

He got a huge rock or brick or something like that and surreptitiously put it into her book bag. So when class was over and she went to pick it up, the thing was extraordinarily heavy and she burst into tears. And then he

introduced himself and apologized, and they were married a couple years later.

John Caher: So he was a knight in shining armor who solved that problem of her heavy book bag?

Chief Judge Wilson: He created his own distress, yes. So more to your question of how they shaped me, well, there were a bunch of factors. I'm the oldest of three, and because my mother was totally blind, she needed somebody to get her places, but also to read basic things to her. How do you know if something's a can of cream of mushroom soup versus a can of tomato soup? You need somebody to be able to read. So I learned how to read. I was bad at lots of things early on, but I was a really good reader very early on. So a lot of my childhood was really spent reading things to her.

They left BU when my dad got his master's. She left also with a master's and something else that was called a "certificate of advanced graduate specialization," which was essentially what we now call ABD, "all but dissertation."

They didn't like the cold in Boston, so they moved. I had an uncle in Florida. They went to Florida and hated Florida. They were only there for a week or two and then traded in their bus tickets for a car or something like that— I may have it backwards— and went to California. My dad was looking for work in California, and he almost ended up having to take a job at a car wash. I mean this is a guy with a master's in education in 1959.

But at the very last minute, a one-year teaching position in a little town called Perris, which is in the desert somewhere I've never been, opened up. So he took that job for a year. My parents lived there for a year. And then he got a job working for the State of California at what was then called the Pacific State Hospital. It was essentially a state-run institution for intellectually challenged people.

So he worked there. We lived in Pomona. I was born in Pomona, which is a suburb outside of Los Angeles, about 30 miles or so. Lots of my childhood was shaped by taking my mom places, reading things to her. When we moved to Berkeley when I was seven and she started a Ph.D. program there, I read a bunch of her coursework to her. She finished that when I was just about to turn 12. She was not employed outside of the home until, I think, the 1968-'69 school year when she taught special education at Castro Valley High School. And then she went back and got her doctorate from UC Berkeley in '72.

John Caher: You obviously learned a great deal about people who are sightless and how they navigate the world.

Chief Judge Wilson: I did. It was interesting. Obviously, we had to make accommodations. Kids couldn't leave toys and tripping hazards all over the floor, so our house was not like that. But she would ask me whether a bill was a \$1 bill or a \$5 bill or a \$10 bill and would fold the bills differently when she put them in her wallet, so she wouldn't then need me or somebody else to be able to know what kind of bill it was.

If you took three or four, even up to five, different coins and dropped them on a hard surface, she could pretty unfailingly tell you what they were.

John Caher: Really?

Chief Judge Wilson: I can't do that. You probably can't do that, but some of your other senses are accentuated because you need to rely on them when you've lost a sense.

When we moved to Berkeley in 1968, which was interesting for many reasons quite apart from my family, my dad was still working for the state, but he transferred and was teaching at the California State School for the Blind and Deaf actually, which was then located in Berkeley. So he could walk to and from his job. I had met, growing up, a lot of people who were challenged in terms of differently abled.

John Caher: I would imagine. You were born in 1960. By that time, [Brown v. Board](#) was settled, if not universally accepted, law. The civil rights era really gained steam when you were a kid. But your parents came of age in the Jim Crow era and were full-grown adults when the Civil Rights Act was passed, when the March on Washington occurred, when Martin Luther King was assassinated. What did you learn from them about what they had experienced in their life?

Chief Judge Wilson: They were very, I would say, socially conscious. When they received their degrees from BU, Dr. King was back there to receive his honorary degree, and so he spoke during their commencement. He actually spoke with my mom. She passed away when I was 18, but she had a lot of stories about meeting people. Another person she met sitting on a bench one day was Ernest Hemingway.

John Caher: Wow!

Chief Judge Wilson: So anyway, back to civil rights, I don't remember President Kennedy's assassination, but I remember my parents certainly talking about it. I was old enough to have watched TV and be with my parents when they were watching the coverage of Dr. King being assassinated. I watched the "I Have A Dream" speech. It was televised, and I remember it. Partly because I was reading all sorts of things to my mom, I was pretty aware. And then once we moved to Berkeley, with the free speech movement, the antiwar movement, civil rights movement, Berkeley was a very interesting, unusual place in the 1960s and early 1970s. I watched the 1968 Democratic and Republican conventions. I watched the Watergate hearings. This is all as a kid.

My parents were really very influential in a critical thinking sense. They would watch the national news with Walter Cronkite, and then the local PBS station in Berkeley, KQED, that had a very counterculture newsfeed that took a different angle on things and was very in tune to a lot of civil rights issues.

John Caher: Were you reading newspapers to your mom?

Chief Judge Wilson: I was reading some newspapers. There were magazines that she could get in braille, and so I didn't have to read those. The daily newspapers typically didn't come in braille, and this is way before you could get computers to convert print to audio. Books, whether they were fiction or nonfiction, she could largely get in braille, but typically not her academic Ph. D. coursework.

There were two ways that she got reading material. One was through a place called Recording for the Blind, and they would come in big reel-to-reel tapes, and so she could listen, but that was not her preferred way of reading. She would also get books in braille. I've forgotten the service they came from, but they came in these very large, rigid, almost square-ish sized containers, probably 22, 24 inches square because the braille took a lot of space.

The raised dots made the pages a lot thicker than they would otherwise be, and it was pretty heavy paper to begin with so the braille would hold up. So you might get a 300-page book, and it would come in four of these crates. Magazines could come that way, too. One of the magazines that she got, which I thought was hysterical, was *Playboy*. Of course, you're not getting any pictures or anything like that, but it did always have interviews with people and she was reading it for the interviews.

She got lots of others, *National Geographic* and other mass media publications that way. She was an avid reader. She hardly slept. I guess one great thing about being blind is you could read next to your spouse in the middle of the night and you wouldn't need a light. So if you walked by their bedroom really late at night or early in the morning, you'd hear the sound of turning pages.

John Caher: What were your most formative experiences as a child?

Chief Judge Wilson: Well, it was recognizing that I could really help, because I was the oldest, and that you get a great enjoyment out of helping people. Having been brought up in a circumstance where that was my job really, things like that kind of came naturally to me. Growing up in Berkeley, I think, was also formative. I think if we'd stayed in Pomona, which was a very sleepy place, not really much happening there, I don't know that I would have involved myself in the things I've involved myself in.

John Caher: Is that early lesson in the enjoyment of helping people what led you to the law?

Chief Judge Wilson: I think it ultimately did. I mean it was that and a couple other things. I realized very early on that I couldn't draw at all, so architecture was out. And then I was interested in medicine until a very well-meaning teacher when I was 11 years old took me on a weekend to the Human Anatomy Lab at UCF Medical School, and the students were cutting open human cadavers. That was the end of medicine for me.

John Caher: When did you decide you wanted to be a lawyer?

Chief Judge Wilson: Well, that's a difficult question. I decided that I wanted to be involved in government or public service or issues like that, I would say, around ninth, 10th grade. I didn't know any lawyers. I hadn't met any lawyers. I'm sure I knew that they existed. When I went to college, or probably even a little bit before that, I thought that whatever it was I wanted to do in the field of public policy or government, it would be good to have a law degree, which isn't the same thing as being a lawyer.

I was really not sure, even when I was in law school, that I wanted to be a lawyer. What I thought that I wanted to do as I was finishing up law school was to be a law professor. But one of the things that I had noticed about the professors that I had, as a generalization, is that the ones who had also done something practical with the law, either that they actually had worked as lawyers for a while or that, while they were professors, they took cases on the side, even if it was just an appeal here and an

appeal there, or they worked with a clinic, that having that real-world experience made them, at least to me, better professors.

With that objective in mind and then while I was clerking, thinking that I should go somewhere and get a few years of experience and also pay down some student loans and then look for teaching jobs, was still what I was thinking about even as I ended my clerkship two years out of law school.

John Caher: How did you end up in corporate law?

Chief Judge Wilson: Well, that's a good question. It was litigation. It wasn't putting together deals and that sort of thing. So it was the area of law that I thought I would be interested in. Until I had a job at a law firm after my first year of law school, I didn't realize there were lawyers who never went to court. I mean that's how little contact I had with the law. I did have an undergraduate course in constitutional law with [Archibald Cox](#) [Cox was solicitor general under President Kennedy and special counsel during the Watergate scandal. He later became a law professor at Harvard], but that was obviously coming at things from a very public policy and litigation kind of perspective.

From all of my experience in high school in speech and debate and California YMCA Youth & Government and Model UN and things like that, I would never have gone and been someone who negotiated and drafted transactional documents. I always would have wound up on the litigation side of things. So I wound up at Cravath because it had the reputation of being the best firm in the country, a firm that would give you the most experience the fastest, remembering that my objective was to get two, three, maybe four years of experience and then go off and get a teaching job.

And then I figured that even though I wasn't from New York and I really didn't have any intention staying in New York, that if you were able to get a teaching job anywhere, you'd be lucky and it might be anywhere in the country. So being in New York for a couple years wasn't really going to affect my chances of getting a teaching job somewhere, and it wasn't going to set down permanent roots in New York or anything like that. So I was really looking at Cravath just for the experience I could get.

John Caher: While you were doing that, I know you spent something like 20 years fighting employment discrimination in the Alabama case involving Black and female plaintiffs.

Chief Judge Wilson: Yeah. I started 1989 on that, and I finished in 2017. So it was 28 years, if I count right.

John Caher: And then you're also involved in the Lawyers' Committee for Civil Rights Under the Law, Neighborhood Defender Services. Why did you get involved in those activities?

Chief Judge Wilson: Different reasons for different ones. The Alabama case was really one where I was assigned when I was a relatively senior associate. I was assigned to a partner who'd taken that case on in 1983. He essentially turned the case over to me. He'd had kind of enough of it. He took it up to the US Supreme Court. He lost on a 5-4 decision on a collateral estoppel issue. So then the whole thing had to go back for retrial, and there were lots of twists and turns.

So that was one where I was assigned to it just as I might have been assigned to any work. And then when I was a partner, he turned it over to me and then it was my responsibility to finish it out, which took ... I think he turned it over to me fully, I'd say, probably in 1994, 1995. I had it the same way I would have had any other piece of work in the office.

John Caher: So that wasn't extracurricular work, really. But you did do a lot of extracurricular work as well.

Chief Judge Wilson: Yes, I did. The [Lawyers' Committee for Civil Rights](#) was a different partner who had been on the board and asked me to be on the board, and I agreed. It seemed like an organization that did a lot of good work. The firm had a long history of it.

There's only been one other Cravath partner to serve on the Court of Appeals, and he served for a total of nine months back in the 1940s. His name was [Bruce Bromley](#). He was a titan of the bar.

But back then, Court of Appeals judges had to stand for election. That's how you got on the court. There wasn't the commission. He was appointed by Governor Dewey to fill out the stub term of Thomas Thatcher, who was the Thatcher from Simpson Thatcher, who'd gotten sick, and Judge Bromley failed in his reelection bid. He then was the person who founded the litigation department of Cravath.

President Kennedy called together a whole bunch of leaders of the commercial bar from around the country to the White House, I think there were 200 and something lawyer heads of law firms who came to form the Lawyers' Committee for Civil Rights, Bruce Bromley was one of

the people there. So he was there at the founding, and Cravath has had a long relationship with Lawyers' Committee.

John Caher: Now, for someone who did not plan on spending very much time in New York and didn't especially want to be here, it seems like you wanted very much to be on the Court of Appeals because, by my count, you were on at least six lists before you finally got that call. Why were you so interested in serving the Court of Appeals as opposed to anywhere else?

Chief Judge Wilson: Well, I was interested in the Court of Appeals, but I think I would say I was most interested in being a judge, and I was most interested in being an appellate judge. I think there are fundamental, and I don't want to insult anybody, but fundamental differences between being an appellate judge and a trial judge. I really enjoy working with other people and bouncing ideas off of them and finding out that some great idea I had is wrong for reasons I didn't anticipate. That's, to me, a really great intellectual exercise. And I like having the time that appellate judges do to think through things. I think trial judges don't have those luxuries, and they enjoy something different. They enjoy seeing the litigants, managing a trial, which has a life of its own, making quick decisions that they have to about rulings on evidence and other things like that. I think I'm better suited to the appellate job.

There are great things about being a federal appellate judge. Principally, you've got great surroundings and great help and life tenure. I've got great surroundings and great help and a 14-year term, and I age out at age 70. So the latter is a drawback, assuming that at by age 70 I still would want to work, or even be able to work.

Because the Court of Appeals, unlike the federal courts, is a common law court, that's a huge plus as far as I'm concerned because federal courts aren't. We have a body of law that we work with to try and adapt it to changes in society and changes in technology, changes in the way we live, changes in statutes. There's a great public policy element that the federal courts lack, other than perhaps the Supreme Court, which will say it's not involved in policy making and is just following the law and isn't a common law court. But that's up for debate, let's say.

John Caher: Now, substantively, the federal and state constitutions are entirely different creatures.

Chief Judge Wilson: They are.



John Caher: New York's is, well, I would say it could use some editing, but it's much more extensive, much more expansive, and much more, I would think, suitable for creativity.

Chief Judge Wilson: I think it is. There's a kind of, I think, advantage that the Court of Appeals has with regard to the New York Constitution that the Supreme Court doesn't have or maybe shouldn't have with regard to the federal Constitution, which is you can amend the New York Constitution. It's been amended 250 times, in less time than the US Constitution has existed. The 250 is a conservative count because sometimes it was amended by conventions.

And then how do you count 67 different amendments that happened at a convention? Do you count them as one? Do you count them as 67? Do you count them as 23 because a lot of them are interrelated? That's a pretty conservative number. The people can modify it directly by popular vote after the legislature successively passes the amendment. So the way that affects the Court of Appeals is we don't have to worry so much about making a mistake.

Of course, you worry about making a mistake. Of course, you try to get the law right. But if we misinterpret the Constitution, particularly if we misinterpret it badly, something can be done about that with much greater ease than amending the United States Constitution, and that's comforting.

John Caher: Are there judges historically at the Court of Appeals, or any court, who you particularly admire or would consider judicial role models?

Chief Judge Wilson: Well, from the Court of Appeals, I keep Judge [Benjamin] [Cardozo's](#) writings where I can reach them just by turning around and grabbing them.

John Caher: Well, you're sitting at his desk, aren't you?

Chief Judge Wilson: I am now, yes. I am now, which is why I'm careful not to have any liquids anywhere near it.

John Caher: I bet.

Chief Judge Wilson: With my new hat on, Judge Kaye, I think, was very well-respected, was open and, administratively, I think ran the courts beautifully. That's a tough act to follow. But in terms of something I would like to aspire towards, I think the way that she managed things was really, really

wonderful. In terms of writing, on the US Supreme Court, Justice [Robert] [Jackson](#). I'm never going to be able to write that well. But he wrote absolutely beautifully.

I think Justice [John Paul] [Stevens](#), in terms of creativity and looking at things from a different vantage point than many others did, it was always fun to read his separate opinions. Those are the ones I'd pick out immediately.

John Caher: Now, the Court of Appeals didn't have its first Black judge appointed to a full term until 1985 when you were 25 years old, and that was Judge Fritz Alexander, who was appointed by Governor Mario Cuomo. As of today, I think there have been seven Black judges on the court, two right now, you and Judge Troutman. What can we say about the progress that's been made during your lifetime?

Chief Judge Wilson: My lifetime now spans back, as you mentioned earlier, to just a little after *Brown* and well before the Civil Rights Act, well before [Loving v. Virginia](#) [the 1967 case in which the Supreme Court shot down laws banning interracial marriage] well before a lot of other cases. When I went to college in Boston in 1977, when I showed up there, that was almost in the teeth of the anti-busing demonstrations.

I wouldn't say that even in Boston, which you think of as a pretty liberal place, *Brown* and cases like that were really fully accepted. They may have been accepted by the legal establishment, but by the people who lived in South Boston? There were plenty of places I would not go back then, and that's changed in my lifetime. I mean that's changed since I was college age.

We had a school group visit the Court of Appeals. We weren't in session then, but I went up. There were a bunch of kids from Westchester and then some from Nyack, middle schoolers and high schoolers. One of the teachers from the middle school group said to the students who were sitting in the gallery in the courtroom where the audience would sit—the courtroom is lined with portraits— "Look ahead of you. Look at the sides. Look at those portraits. Now turn around and look at the ones behind you. Do you notice any difference?" A kid immediately shot his hand up and said, "Yeah, there are people who look like me in the back."

If you want to find women or African Americans or Latinx people, they're on the back of the courtroom, because that's where the more recent ones go. Chief Judge [Judith] [Kaye](#) is up back there, too. But that tells you something about the progress, about how long a period of time there

was none. And then how more recently, there's been, at least in comparison, immeasurably different progress.

Another group came in that was called, this is when we were in session, called Girls Rule the Law. I was sitting as Chief then, and I welcomed them. I said, "If you look up here at the bench, you'll see that women rule the court because four of the judges sitting are women."

John Caher: You preside over what is certainly the most diverse Court of Appeals in state history— two Black judges, two Latinx judges, one openly gay judge, the first Greek ever to serve on the court and, as you just mentioned, women are the majority. Why does diversity matter on the high court?

Chief Judge Wilson: Diversity matters because we're trying to arrive at the best communal decision we can. It's a diversity of all kinds of experiences. It's not just a diversity of what's your ethnic background. For example, Judge [Madeline] [Singas](#) brings a lot to the court because she was a prosecutor. She was the district attorney for Nassau. So particularly in criminal matters, she has a perspective that I don't have. I was never a prosecutor, nor was I a defense attorney, so I can learn a lot from her observations about how things really work. Likewise, in a complicated reverse mortgage-backed securities matter, I've got some experience with those, and Judge Singas doesn't and Judge [Jenny] [Rivera](#) doesn't.

People's upbringings also matter, also, of course. You were asking about things about my family that shaped me. Those certainly influence your perspective on how you relate to people and how you relate to ideas and how you relate to the law. It's good to have those different perspectives in terms of not just professional experience, but also upbringing because as long as you're all good listeners and have some flexibility, I think, and this goes back to why would I rather be an appellate judge than a trial judge. As a trial judge, I rule whatever I rule and somebody reverses me or they don't. Maybe I care about that or maybe I don't. But it's all on me. There's nothing wrong with that. But I'd much rather work collaboratively with people. It's great when they have a different perspective and different things to bring to the discussion.

John Caher: Well, historically, not always, but I think for the vast majority of its history, the Court of Appeals was a collaborative, collegial court.

Chief Judge Wilson: Yep. Yep, absolutely.

John Caher: Now, as you well know, the court system received a not exactly stellar [report card](#) from [former Secretary of Homeland Security] [Secretary Jeh](#)

[Johnson](#) a few years ago following a very thorough look at the court system and its efforts to eradicate bias. What can you do to make sure our next report card shows some improvement?

Chief Judge Wilson: Well, I think that the most important thing is to set the right tone and to emphasize that we need to value each other for who we are and that obstacles to advancement shouldn't be there if they're based on race or ethnicity or anything that we don't think really matters in terms of who you are and what kind of a job you can do. And then I think it's important to look for qualified people, even those who aren't in the system, and to try and get them into the system.

From many years of recruiting at Cravath, I learned that mass communications directed at target populations don't really work very well. So, for example, we're short of court officers, and it would be nice to have a more diverse group of court officers. That's one of the things that the Johnson report says. But if we were to publish something either on the website or elsewhere saying, "We really are looking for officers from diverse populations," my experience is that's going to bring us nothing, not going to make it any difference.

Even if my picture is plastered on the thing, it's not going to make any difference. So what people have to do is to go to high schools and we're doing that. For the first time, we have a program where we're going to pay high school students or recent graduates. There are 100 spots. We will expand it next year, if we need. \$18 an hour to work for the summer, and we're going to put them in different places within the court system to expose them to things and to actually pay them to do some work while they're there, with the idea of encouraging them to think about a career in the court system.

People throughout the system have to be committed to try and taking these young people, exposing them to the system, treating them well, and encouraging them to think about a career with the courts.

John Caher: As you may or may not know, for the past several months, there's been a recruitment video in the works, which is almost done. Part of the aim there is to show high school students a range of careers that we have. I mean, what do they think of the courts— a bunch of lawyers and judges. They probably have no idea of the potential to be a law enforcement officer, an IT specialist, a social worker, and et cetera.

Chief Judge Wilson: When the video is done, the great thing would be not simply to send it off to a high school to be shown there, but to have somebody who works

for the courts go and talk to the students and meet them in person. It might be a group of 30 of them, and there might be only one or two who stay after to ask a question or who look during the thing like they're not falling asleep, but they're actually paying attention. And then you can go say, "What'd you think about this? Is there anything that you saw was interesting? We have summer jobs for next summer."

What I found is that it's that one-in-one contact that produces results. It's laborious. There's a lot of overhead associated with it, but it pays dividends. I went to the Kings County Law Day event and Judge [Joanne] [Quiñones](#) had a bunch of students with whom she'd been working with through their mock trial program.

John Caher: You, of course, have two huge jobs, Chief Judge of the highest court in the state and Chief Judge of perhaps the most complex court system in the nation. What are your biggest challenges as a jurist and as an administrator?

Chief Judge Wilson: Well, as a jurist, it's the same as it's been for the last six and a half years, which is just try to get the law right. On the jurisprudential side of things, I don't think my job has changed very much. I mean there are administrative things related to the Court of Appeals, so I would like to take more cases, and I have some ability to influence that. I'd like to have fewer things on the non-argument track. So I have some ability to influence that. There are certain types of things there where, although they're kind of administrative, they really have to do with the Court of Appeals where they will affect the jurisprudence of the court. But in terms of getting my colleagues to see things my way or me to see it their way and to come to some kind of consensus, I don't really think of my job as Chief as very much different than it was before. I think we all should be striving to agree where we can and then, if not, to carefully articulate why we think something different should be the result.

On the administrative side, I think, is where I've got the huge challenge, not simply because I haven't been a court administrator before or been in the system, but because [[Chief Administrative Judge Lawrence Marks](#)] retired towards the end of last year, we lost all that institutional capacity.

We have to fill that spot, which we just did with Justice [Joseph] [Zayas](#) who I think will be great. He wasn't the Deputy Chief Administrative Judge before that, so he's also got a learning curve, maybe not as steep as mine, but pretty steep. The head counsel job at the Office of Court Administration is vacant. We've got to fill that. That's also a place where

you have a bunch of institutional knowledge and especially dealing with the Legislature on varieties of things we want to do. That's vacant.

And then there are spots on my own staff, spots that I didn't have that I now have that are also vacant that I've got to fill. And then there's my task of getting to know the Administrative Judges around the state and visiting courts around the state, along with Justice Zayas and the Deputy Chief Administrative Judges, learning what the needs are and then working with the judges and the court administrators and the Legislature and the Governor's staff to try and come up with solutions where we need them.

I'm oversimplifying this a bit, but many of the committees and commissions that exist have looked at the court system from a top-down way and tried to come up with policies to address a problem where the problem may exist everywhere or may exist almost everywhere but exists in different forms and to different degrees. So a kind of top down solution may work to some degree, but Judge Zayas and I think that we're better off working from the bottom up and finding out place-by-place what's working well. What isn't working? Why isn't it working? What is it you think you need to make it work better? And tailoring the solutions on a more local basis. So that's a hard task.

John Caher: It is. In many ways, it's a tale of, well, not two states, but 62 of them. I mean life in Lewis County is considerably different than it is in Brooklyn.

Chief Judge Wilson: Even Brooklyn and the Bronx are different! Eight months ago or so, I spent a day in Drug Treatment Court in the Bronx. The resource available there to find placements for people is vastly different than it is in Manhattan and even different than it is in Staten Island. They need different things. But it's that kind of investigation that I think can produce the best allocation of resources.

John Caher: Now, on the caseload, the only way to increase that really is to grant leave more often.

Chief Judge Wilson: Yes. Although we're not the only ones who can grant leave.

John Caher: Right, but historically I think Court of Appeals Chief Judges have not necessarily looked kindly on Appellate Division judges who foist cases on them. It sounds like you've taken a different approach.

Chief Judge Wilson: Here's my spiel about that. Let's talk about the civil cases. I think last year for the first time, or at least as far back as I've looked, which is at least a

decade, we had more criminal cases than civil, which is really unusual. The balance ought to be something like not quite two to one, but 60/40, something in there. So the drop-off on the civil cases has been much sharper than on the criminal cases.

So then think about what the process is for the civil cases. What happens is somebody applies for leave. It goes to our central staff, basically 12 attorneys who are quite young, not necessarily straight out of law school, but some are. They're there for a two-year stint, and they move on. So there's six who start new every year and six who've been there for a year.

They get the leave application. They get the underlying papers. They prepare a report and recommendation. They're usually quite thorough. They're good at picking up procedural issues and so on, and those come to us. At least in my time on the court, I would estimate that probably 98% of those recommend denying leave. I and my law clerks have spent a lot of time over the past many years writing memos, several each month, saying, "No, no, no, we should grant leave."

Now, my batting average on that is something like 40%, which is a good batting average, but a bad free throw percentage. I've calculated at one point something like a quarter to a third of the civil cases in which we granted leave are ones in which central staff had said no, and my clerks and I wrote a memo saying yes, and I was able to get a second vote.

But if you're thinking about the Appellate Division, when they're sending us a case, there's been four or five judges, depending on whether it's in the Second Department or elsewhere, who've been through the case. They've decided the case. They've read the record. They've read the papers, and now they've read the leave application. My basic point is I think they're in a better position than our central staff to identify cases that we should hear. I'm not sure they're in a better position than the judges of the Court of Appeals, except that they are privy to things we don't know.

To give you an example, several years ago, I was having lunch with [then First Department Presiding Justice Rolando] [Acosta](#) and he said to me in kind of a little bit of frustration that he sent a case to us and there were 14 other cases that had the same issue that they were holding up for our decision in the case that he sent. We decided it on a different ground that didn't help with the other 14 cases.

I said, "We have no way to know that you've got these other 14 cases." I also said to him, "If you look back 75, 100 years, the Appellate Division

didn't certify cases saying, 'Was the order of the Appellate Division correctly made?' They certified an actual question of law the way that the Second Circuit or other federal appeals courts do."

John Caher: So a certified question?

Chief Judge Wilson: Exactly. You can find lots and lots of cases like that from 100 years ago. That's what the Appellate Division did. In a circumstance like that, either somebody could communicate to the court, "We've got a bunch of other cases on this issue and that's why we're sending it," or they could simply certify that particular question. So, for a lot of reasons, I think that they are actually in a good position to send us cases. If they send us a case that we think is trivial or we really shouldn't have, we can put it on the non-argument track. It doesn't take too much to dispose of it then.

If there are a lot of cases like that coming from some particular judge or some particular court, I can then have a conversation with the PJ or with that judge or both and say, "This is recurring, and here's why we really don't think this is worth our time." Rather than just saying, "Don't send us anything," which I think is a mistake. So yes, we can grant more, and I think you'll see that we are granting more. I think we're projecting substantially more cases ready for argument this coming September than we had last year, and I think the grants are up.

John Caher: Great. Great. Let me switch gears a little bit. Tell me about your family.

Chief Judge Wilson: Sure. What about them?

John Caher: What does your wife do? What is she like?

Chief Judge Wilson: My wife is a Columbia Law School graduate. She worked in trusts and estates at Simpson Thacher for five and a half years maybe. We didn't have kids at that point. She sort of got tired of that and of practicing. And then we had our first child shortly. For a long time, she was saying, "When our daughter turns X" "I think I'll go back and get a Ph. D. in Psychology and become a psychologist." So, she said that for many years.

And then we adopted our second child from Ufa, which is in Bashkortostan, which is one of the "stans" [countries having names ending with the Persian suffix "stans," which means "land of..."] that remained in Russia. It's right at the border of Asia and Europe. So the people there are really very interesting looking. If you wanted to start a modeling agency, that would be the place to go because you could find all kinds of different looking people in one place.



She's now 18. She's just finishing high school. That's our middle daughter. And then we adopted our third daughter from China, from Jiangxi Province, and she is 12 and just finishing fifth grade. So we've got three girls. We have a girl dog as well. The three of them are pretty much exactly six and a half years apart each, so 24, 18, and 12. Sometimes it's hard to find something that all three of them really enjoy doing together, and sometimes it's not. They're a lot of fun.

My wife did go back to school about two years ago and got a master's in Library Science and is now in the midst of an internship at Brooklyn Law School's library. I don't know that she's thinking of working permanently at a law school library, but she might.

John Caher: So with two more than full-time jobs and three daughters, what do you do in your free time? Or is a question what you would do in your free time if you had free time?

Chief Judge Wilson: Well, in my free time, I do the dishes. I do some laundry. I walk the dog and feed the dog. We have a cat now, too, so I do that. What I would like to do if I had free time, and when I did have free time years ago, I love to read fiction. I'm a bad pianist, but I've always found it very relaxing to just sit and play. I'm way out of practice now, so I would need a long time before I would do anything without headphones on.

John Caher: Who are your favorite authors?

Chief Judge Wilson: I tend towards classics, George Eliot, Thomas Hardy, some Americans—I guess I would say Steinbeck, Toni Morrison, probably Faulkner more than Hemingway, but I like them both.

John Caher: What is the single most important thing that the judges and nonjudicial staff should know about Rowan Dudley Wilson?

Chief Judge Wilson: That I care about them.

John Caher: What a wonderful way to end. Judge, thank you so much for your time, and thank you for your service.

Chief Judge Wilson: Absolutely. Thank you, John.