

Promoting Diversity in the Courts: Hon. Lillian Wan

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 pleased to welcome the Honorable Lillian Wan, an Associate Justice of the Appellate Division, Second Department. Justice Wan, the daughter of Chinese immigrants, is the first and only Asian American woman to serve on any of the four departments of the Appellate Division and was also the first Asian American elected to Supreme Court in Brooklyn.

A graduate of Binghamton University and Albany Law School, Justice Wan spent her early years as an attorney trying and supervising hundreds of abuse and neglect cases as a litigator in the Family Court Legal Services Division of the Administration for Children's Services. She later handled cases involving developmentally disabled adults, adoptions, trusts and estates as a court attorney/ referee in the Kings County Surrogates Court.

In 2012, she was appointed to the bench by Mayor Michael Bloomberg and served in Family Courts in Brooklyn and the Bronx, dealing with child abuse and neglect, custody, visitation and juvenile delinquency. She was appointed to the Court of Claims in 2018 by Governor Cuomo, was later elected to Supreme Court and promoted to the Appellate Division in 2022 by Governor Hochul.

Judge Wan, thank you for your time. Tell me about your parents, if you would. How, when and why did they immigrate from China?

Judge Wan: Thank you, John. My parents are actually both alive and well, retired and living where I spent most of my childhood in Malverne, Nassau County, Long Island. My father was born in the Sichuan Province of China in 1945, and my mom was born in the Hubei Province of China in 1947. Their families both fled China during the Communist takeover in 1949, so they were pretty much babies. My dad was about three, and my mom was one-and-a-half or so, and their families actually relocated to Taiwan, which is the childhood that they remember.

Then my parents came to this country. My dad came in 1969 and then my mom came in 1970, and they didn't know each other yet. They met in New York City. They came here, like most immigrants, for a better life, for opportunities. My dad was initially living on Ludlow Street in the Lower East Side of Manhattan, Chinatown, where a lot of immigrants went, and my mom started off in Jackson Heights, Queens, and then moved to Woodside. My parents got married in 1973, and they lived in Flushing, Queens for a while, and they actually just celebrated their 50th wedding anniversary.

John Caher: Oh, that's remarkable. That's wonderful! Did they experience discrimination when they came over here?

Judge Wan: Yes. My mother used to tell me stories about working in New York City. My mom was first a nurse's aide, and then she became a neonatal intensive care unit nurse for about 40 years. My mom would tell me stories about how people were dismissive of her. She spoke English with an accent, with a Chinese accent, and people underestimated her and thought that she didn't know what she was doing. She always felt like she came with that presumption and that she had to sort of dispel that presumption by showing that she knew what she was doing by working hard, which she did, but she did always feel like she was being treated differently. She looked differently than the other nurses around her. Again, it was the accent and people would make assumptions about what she knew and what she didn't know. My mom is about 4'11" and about 105 pounds, so she's this diminutive Asian American woman and people don't think much of her at first. But she really is a force to be reckoned with!

John Caher: So you grew up mainly on Long Island, right?

Judge Wan: I did, yes. Born in Queens. We first lived in East Islip in Suffolk County and then moved out to Nassau County, Malverne, Nassau County when I was about six-years-old. My parents are still there, and I lived there until I was in college in Binghamton.

When we were living in Malverne, which is what I most remember, we were the only Asian American family around. All I ever wanted as a kid was to belong and to be like everybody else. I was always treated a little bit differently because I looked different than everybody. When my brother and I were in elementary school, the other kids around us just did not have that much exposure to Asian Americans. So they used to assume that, "Oh, you must be Bruce Lee's brother or sister." That was their only exposure to an Asian American, what they saw on TV. So that was what kids said, that's what people said to us. People were always marveling at how well my brother and I spoke English even though we were both born in New York.

John Caher: How did your parents' experiences and your experience shape you and your view of the law as a tool, as a remedy?

Judge Wan: I think that I learned the importance of being inclusive early on, not to judge a book by its cover. People made assumptions about me and my family because of the way that I looked, because of the way we looked. As an ACS attorney, when I started out as a lawyer, I started out with two other Asian American women and everybody confused us. I wanted to make sure that, especially when I became a judge, that I fostered an inclusive environment. I always knew that I wanted my

courtroom to be a place where everyone feels welcome, everyone feels included, that everyone feels, regardless of the outcome—win, lose or draw—that I'm not going to prejudge you based on what you look like or where you come from and that you're going to get a fair shake in my courtroom, whether you love my decision or hate my decision at the end of the day, and that's still what I aspire to.

John Caher: Are there any distinct or unique Chinese customs that you continue or you'd like to share with our listeners?

Judge Wan: When I think about my upbringing and what I took with me from growing up in a loving household with two immigrant parents who worked so hard to give their children everything, it's probably that striver mentality and way of being, something that is part of me every day of my existence. That striver mentality is something that shines through.

John Caher: What were you like as a 10-year-old?

Judge Wan: I remember snippets of things when I was 10, and I actually asked my mom this question recently. It's very funny, some things don't change. She said that I was never much of a sleeper, which is really still the case. I don't get much sleep. There's not enough hours in the day for too much sleep. So my mom always said that I was the first person up, never slept in, always too much to do, even on weekends. She remembered that on Sunday mornings my family would go to church and she said that I got up first, I would get in my little dress and then study.

At first I was thinking, "Well, what on earth was I studying?" Then I remembered, I said, "Oh, I know exactly what I was doing at that time."

Back when I was around 10 years old, there was this Sunday school teacher, we called him Uncle Frank, and he said to our class, "If anybody memorizes, in order and recites it in front of the class, all 39 books of the Old Testament, you would get your own Bible, and it would have your name embossed on the bottom right-hand corner in gold." He showed us a sample of what it looked like.

I remember thinking, "I want one of those," because when I was growing up, I really did not like my name, "Lillian Wan." Three syllable first name, hard to pronounce. I always gave my parents a hard time. How was it that two Chinese immigrants with English as a second language chose one of the most difficult names that you could have? I wanted to be named Jennifer or Mary or pretty much anything. My relatives had a hard time pronouncing it. Nobody else was named Lillian, and I could never find any personalized items with the name Lillian. I just wanted a mug that said "Lillian." You could find a mug that said,

"Jennifer," but you could never find a mug that said "Lillian" or a sticker or one of those script gold name plates that everybody used to wear. I really, really wanted one of those, but you could never find a Lillian. I desperately wanted something that had my name on it. So I got up early, and I memorized all those books in order and got up in front of the class and did it and was able to get that.

John Caher: So was that tendency to identify a goal and work very, very hard to get it something that was an influence of your parents and their example?

Judge Wan: I think so. It had to be. It was knowing what you want and then putting the work in to get it. For sure.

John Caher: And that has carried through?

Judge Wan: I think so.

John Caher: So at 10 you're a very studious child and then you become a teenager and now what happens? Same thing or different?

Judge Wan: Well, I would say that I was still studious. I never stopped being studious, but I was definitely a regular obnoxious American teenager. Fought with my parents over boys, staying out late, going to concerts, sleepovers at my friends' houses, and definitely fought more with my mother than my dad. My dad was always more quiet and reserved, but my mom and I used to go at it over, now looking back on it, really, really dumb things. So again, still, always studious, always kept up my grades. My parents were strict. They didn't let us sleep over at our friends' houses. They said, "Your home is your home. It is not a hotel. You're sleeping here. We don't do sleep overs, we don't do any of that." I was always trying to fight against that.

John Caher: Let's fast-forward this a little bit. So are you now having the battles with your teenage children that you gave your mother?

Judge Wan: Actually, no. I'm fine with sleepovers!

John Caher: Now, when and why did you decide to become a lawyer? Was that always your aspiration?

Judge Wan: No. I was never actually 100 percent sure. When I was in college, I was an English major, and I really didn't know what I was going to do with it. At the time I thought about going into teaching. I applied for Teach for America. I applied to social work school, and I applied to law school. I had a vague notion that I wanted to serve others. I told you my mom was a neonatal intensive care unit nurse for many, many decades, so she was always serving others and putting

others' needs in front of her own. I knew I didn't want to do anything in the medical field, but again, I had this vague notion that I was going to serve the public. I knew that I wanted to do something that involved public service, helping others in need, but it was really just a vague notion of this when I ultimately decided to go to law school.

John Caher: It sounds like somewhat of an abstraction when you started, but it sounds like it became very, very concrete when you left and you pursued the field of child abuse and neglect right out of law school, really, right?

Judge Wan: I did. It's really only looking back that I realized that. I had internships during law school over the summer that also focused on the area of child welfare law. My first-year summer, I worked at the Legal Aid Society in Brooklyn in the Juvenile Rights Division, working closely with an attorney who represented children in foster care, and then I also worked at Lawyers for Children, which is an organization in Manhattan representing children who are voluntarily placed in foster care. I gravitated towards that field during law school.

John Caher: Now you've seen things that many of us have not seen and maybe don't know exists. What do you wish that people who've seen what you've seen better knew about that world?

Judge Wan: Honestly, I think that we are all more alike than we are different. I was indicating that growing up that people made assumptions about me and about my family. I feel like we could all do better if we slow down, that if we take a moment to think about it, take extra care, check ourselves and our implicit biases before making an assumption about somebody.

John Caher: That sounds like great advice. Now, how did you position yourself to become a judge?

Judge Wan: As a practicing attorney for the Administration for Children's Services, I did not even think about it. It was not even something that occurred in my mind. Nine years working for the City of New York, appearing before judges all day every day from morning until night, never once did I look up and understand that this was a job that I could do. I saw judges as people who just magically dropped from the sky. I didn't know anything about any of the processes, whether it's the various appointment processes or election. They were there, and I had no idea how they got there, and I never asked any questions. I certainly never appeared in front of any judges that looked like me. So I think it really just did not occur to me.

It wasn't until I left my position for the city, and this is after nine years of being admitted to practice, it wasn't until I left that job and started to work closely with a judge as a court attorney referee, that that became a possibility for me.

That judge that I worked with was Margarita López Torres, the Surrogate in Brooklyn at the time, and I believe the first Latino Surrogate in the history of New York State. So she was a wonderful mentor to me.

I would say within about six months or so of working closely with her, reading motions, helping her decide motions, writing draft decisions, conducting guardianship hearings, conducting kinship hearings, she said to me, “You should put your application in to be a judge. You're going to be hitting 10 years soon, and you will be eligible to apply for a judgeship. This is not a magical process, judges can be elected, judges can be appointed, and if you're interested in being in Family Court, there's an application process that's available online. Here's the mayor's website. You can print out the application, take a look at it, and fill it out and turn it in.”

That was really the first time that I saw that a mere mortal like me could even contemplate that. So, very eye-opening. I realized for the first time, “This is exactly what I want to be when I grow up.” I worked to get that application in, and I literally hand-delivered my application to the Mayor's Committee on Gold Street 10 years and one day of being admitted to the bar of the State of New York in 2011. So after not knowing that was what I wanted to do, I then knew exactly what I wanted to do.

John Caher: You have a lot of experience as a trial judge and now you're an appellate judge. Those are very different disciplines. What was the most difficult transition for you going from the trial court, where basically you make a decision on your own, to an appellate court, where you're one vote on a panel of judges trying to reach a common result?

Judge Wan: Being on an appellate court is really like a team sport, and that is entirely different from your lone wolf existence as a trial judge. So, trial judge for about 10 years, between my years on the Family Court bench and then as an Acting Supreme Court Judge. When you're on the Family Court bench—all Family Court decisions are bench trials. There are no juries in Family Court— so the judge is the finder of fact and the finder of law at all times.

Then I come to Supreme, and obviously we have jury trials there and things like the evidentiary objections, the rulings on the motions. But it was still all me—my courtroom, my decisions, my evidentiary rulings. It is definitely an adjustment going from lone wolf to being on a panel and a team, the Appellate Division, Second Department.

We now have a full complement of justices. We are at 22 members, and it is an adjustment to get used to the fact that in the Appellate Division, Second Department, we sit on panels of four and it's joint decision-making. It's a panel of

four making the decision, not just me. So, there are obviously so many different considerations that I just never had as a trial judge.

John Caher: Now, you were President of the Asian American Judges Association for I think three years. What is the mission of that organization?

Judge Wan: According to our bylaws, I think there's something like 11 or so purposes behind the reason for the organization. But I think the three most important are promoting the common professional interests of the membership, promoting diversity amongst the bar and judiciary, and maybe most importantly to me, to advance the inclusion of Asian American judges at all levels of the New York State Court System.

Our Asian American Judges Association has really only been in existence for 10 years. We actually just had our 10-year anniversary gala celebration in May of 2023. The history of Asian American judges in the New York State judiciary is also rather new.

The Honorable Randall Eng, former Presiding Justice of the Second Department, was the very first Asian American judge in the State of New York in 1983. The first one, and that is not that long ago. So we formed this organization in 2013 when I would say there was only about 20 or so Asian American judges all across New York State, with pretty much everybody in New York City. Ten years later, we are about 61 members statewide, and we're still only about 4% of the entire New York State judiciary. But our numbers are growing, and we have trailblazing judges that have been elected north of New York City over the last few years, which is quite an accomplishment. So, still a long way to go, but definitely ever-growing.

John Caher: Why does diversity even matter? What do you learn from people of diverse backgrounds on the bench? What do they learn from you?

Judge Wan: I think three things. First, a diverse judiciary shows all those who appear before the court that the judiciary is less likely to be inherently biased against any particular group. I think it also makes for better decision-making overall, having people with diverse backgrounds together, sharing and exchanging different perspectives and deliberating about the right results. I think this leads to a better just result.

Lastly, I would say it is hard to be what you can't see. When I was a trial attorney for ACS, I never appeared before a judge that looked like me. Again, there were not many Asian American judges in New York when I started practicing out of law school. I didn't know that it was really possible. I didn't know how judges got

there. I never really saw myself in that role. So, judges serve as role models to lawyers and the community.

Now I have the privilege as an appellate justice to do these attorney admission ceremonies, and I love doing these. We'll have like 25 or so new lawyers in a class with their families sitting there in the beautiful courtroom. I usually take note and when I see three or four or five Asian faces there, I see the reason why I'm up there. I know that because I'm there, one of these brand-new lawyers can say to themselves, "Why not me?" It's certainly easier to see yourself in that position when someone else is already there.

John Caher: Of course. Of course. Now, you also chair the court system's Advisory Committee on Judicial Ethics. How did you get involved in that?

Judge Wan: It was the Honorable Randall Eng who actually recruited me to join that committee over six years ago, in about 2017. I believe that he was the Presiding Justice at the time. I was sitting in Brooklyn Family Court. I had heard of that committee, but I don't think I ever sought information about how to become appointed to that committee or anything. But he explained to me that that was a committee of 27 judges from all across the State of New York with different perspectives from different courts, and that diversity of experience as well as ethnic diversity was important. He thought that I had something to offer. I think at the time we didn't have the perspective of someone from the Family Court bench on the committee, and an Asian American on the Family Court bench no less. So I was appointed to that committee then.

It really functions somewhat like an appellate body. We receive inquiries from judges all across the state. We meet seven times a year, and we deliberate on those questions. We have draft opinions that we discuss and then we vote on. Then if we get a majority, then that advisory opinion is published. It is something that our entire state judiciary can rely upon because it provides the judiciary with a presumption that if they follow the advice of the opinion, that there is a presumption that their conduct is proper and in compliance with the rules governing judicial conduct should there ever be an investigation by the Commission on Judicial Conduct.

John Caher: What are the primary ethical dilemmas facing judges this year, in 2023?

Judge Wan: We most frequently get questions about a judge's extra judicial activities, like possible speaking engagements, charitable activities, service on an organization's board of directors. We also field a lot of inquiries about possible conflicts of interest.

John Caher: It seems like you get an awful lot of inquiries, and to me that says that the judges in this state are very concerned with doing what's right and very concerned with doing what's perceived to be right.

Judge Wan: Yes. I think it's great because the time to call us is *before* you act. So we always encourage that. We have an open dialogue, and we very much want people to contact us before they act. I am glad that we do get so many inquiries and that people are thinking about these things.

John Caher: I know you've been very active in the effort to expand language access and interpreting services in the courts. Why is that important to the court system and why is it important for you?

Judge Wan: English was a second language for my parents, who emigrated to New York City in 1969 and 1970. So, mastering a foreign language for them was part of the assimilation process. And raising two kids who were born in the United States, and ensuring that they still maintain their Native Chinese language in the process, was very important to my parents. They sent my brother and I to Chinese school on Sunday afternoons. So, language access has always been important to me. I served on our court system's Language Access Committee for about six years.

As a jurist, I do think that we have the responsibility to set the tone in the courtroom, and we need to ensure that all the staff in the courtroom—the court reporter, the court officers, the court clerk, the court attorneys—play their role in ensuring that a non-English speaking court user is able to meaningfully participate in the proceedings. And this was especially critical in a high-volume court, like the Family Court.

I was always cognizant of language access issues for litigants. I was always asking myself, “Do I have the right dialect?” “Is everybody in the courtroom talking too fast?” “Is the interpreter getting it all?” So in terms of getting the right dialect, I always tried to take a few minutes in the beginning of the proceeding to make sure that the court user can actually communicate with the interpreter that we ordered.

I never wanted a litigant to walk away feeling like they only understood 75% of what happened in the courtroom because of a language barrier. There's so many different dialects. It's not just Chinese. It is Mandarin, Chinese, Cantonese, Fujianese, Taishanese. I speak Mandarin and I don't understand a single word of Cantonese. It was always a challenge.

John Caher: My understanding is we have, I think, several hundred interpreters either on staff or on a per diem basis.

Judge Wan: I think we always need more. I think that there is always a shortage. That's in all the counties in New York State. But I think it's particularly a difficult problem in the five boroughs of New York City, where so many different languages are needed, in so many different courts. I know that we always need more, and I know that we have different recruitment efforts underway as well. We always just need more.

John Caher: What do you do in your free time?

Judge Wan: I knit a lot. I knit like a fiend. I'm in the middle of making two shawls and a sweater at the moment. I do a lot of running. Not as much as I used to. I was training for an ultra-marathon at one point before the pandemic. Not doing that right now, but still try to get out there.

Also in my free time, mentorship is really important to me. So having the one-on-one relationships with folks, helping people through the process, having conversations with people, helping people get out of their own way to submit their application finally. I think often it takes someone else to push you in that direction and to see something in yourself that maybe you didn't see.

John Caher: Finally, what advice do you have for the other children of immigrants who dream of following in your footsteps?

Judge Wan: To be visible, to get involved. I think people need to see you. People I think need to think about taking on leadership positions. Being visible and being out there and having people know you, I think is really critical.

I do think that the issue of the underrepresentation of Asian Americans in the judiciary is really a multifaceted problem that I could go on for hours about, but part of it does start with us, too. Randy Eng once said to me, many years ago, "Politics is not a dirty word." Really, politics is just building relationships and making those connections. So in many ways it's the only game in town. It's going out to bar association events and going out to judicial association events, being active in the community, getting out after work, resisting the urge to go home and put on your pajamas and watch bad TV. It's all of that.

John Caher: That's great advice. Judge, thank you so much for your time and your insight, and thank you so much for your service.

Judge Wan: Thank you so much. It's a pleasure.