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Introduction of Justice Ruth Bader Ginsburg

66 N.Y.L. SCH. L. REV. 11 (2021–2022)

EDITOR'S NOTE: This essay is an edited version of opening remarks delivered on February 6, 2018, as part of the Sidney Shainwald Public Interest Lecture Series at New York Law School, to introduce a dialogue between Justice Ruth Bader Ginsburg and Professor Nadine Strossen. Video of the full lecture is available at New York Law School, *Sidney Shainwald Public Interest Lecture with Hon. Ruth Bader Ginsburg (Feb. 6, 2018)*, YouTube (Feb. 9, 2018), <https://youtu.be/mlos5dd3Po8>.

INTRODUCTION OF JUSTICE RUTH BADER GINSBURG

February 6, 2018

Dean Anthony Crowell: The Shainwald Lecture¹ is always a magnificent event. Each one has featured a momentous national leader, including Supreme Court Justices Sandra Day O'Connor² and Stephen Breyer,³ House Minority Leader Nancy Pelosi,⁴ former Senators and Cabinet Secretaries John Kerry⁵ and Chuck Hagel,⁶ the late Senator Ted Kennedy,⁷ and former Senate Majority Leader George Mitchell.⁸ The series provides a unique forum for thoughtful and intellectual discussion featuring the most prominent leaders in public and judicial service. It was founded by our very own Sybil Shainwald, an alumna and a member of our Board of Trustees, in honor of her late husband Sidney Shainwald, who led an incredibly dynamic life as a highly successful accountant and consumer advocate.

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1. The Sidney Shainwald Public Interest Lecture Series at New York Law School. *About the Public Interest Lecture Series*, SYBIL SHAINWALD: WOMEN'S HEALTH LAW., <http://sybilshainwald.com/About-the-Public-Interest-Lecture-Series.htm> (last visited Apr. 5, 2022).
 2. On April 6, 2010, NYLS hosted a Shainwald Lecture featuring the Honorable Sandra Day O'Connor. *The Honorable Sandra Day O'Connor*, SYBIL SHAINWALD: WOMEN'S HEALTH LAW., https://sybilshainwald.com/2010-04-06_SSPIL_Sandra-Day-OConnor.htm (last visited Apr. 5, 2022); Sybil Shainwald, *2010 Sidney Shainwald Public Interest Lecture, Hon. Justice Sandra Day O'Connor (Ret.)*, YouTube (Aug. 9, 2018), <https://youtu.be/m5KzisL8mxA>.
 3. On May 2, 2006, NYLS hosted a Shainwald Lecture featuring the Honorable Stephen G. Breyer. *The Honorable Stephen G. Breyer*, SYBIL SHAINWALD: WOMEN'S HEALTH LAW., http://sybilshainwald.com/2006-05-02_SSPIL_Stephen-G-Breyer.htm (last visited Apr. 5, 2022).
 4. On September 16, 2014, NYLS hosted a Shainwald Lecture featuring the Honorable Nancy Pelosi, then the House Minority Leader and, as she remains today, 52nd Speaker of the House. *The Honorable Nancy Pelosi*, SYBIL SHAINWALD: WOMEN'S HEALTH LAW., https://sybilshainwald.com/2014-09-16_SSPIL_Nancy-Pelosi.htm (last visited Apr. 5, 2022); Sybil Shainwald, *2014 Sidney Shainwald Public Interest Lecture, Hon. Nancy Pelosi*, YouTube (Aug. 9, 2018), <https://youtu.be/Z4YUJzqFJyk>.
 5. On March 2, 2012, NYLS hosted a Shainwald Lecture featuring the Honorable John F. Kerry, senior senator from Massachusetts. *The Honorable John F. Kerry*, SYBIL SHAINWALD: WOMEN'S HEALTH LAW., https://sybilshainwald.com/2012-03-02_SSPIL_John-F-Kerry.htm (last visited Apr. 5, 2022); Sybil Shainwald, *2012 Sidney Shainwald Public Interest Lecture, Senator John Kerry*, YouTube (Aug. 9, 2018), https://youtu.be/VTR_uWDRT9U.
 6. On October 11, 2007, NYLS hosted a Shainwald Lecture featuring the Honorable Chuck Hagel, senior senator from Nebraska. *The Honorable Chuck Hagel*, SYBIL SHAINWALD: WOMEN'S HEALTH LAW., https://sybilshainwald.com/2007-10-11_SSPIL_Chuck-Hagel.htm (last visited Apr. 5, 2022); Sybil Shainwald, *2007 Sidney Shainwald Public Interest Lecture, Senator Chuck Hagel*, YouTube (Sept. 26, 2018), <https://youtu.be/8cA6qJpFE6Y>.
 7. On June 1, 2005, NYLS hosted a Shainwald Lecture featuring the Honorable Edward M. Kennedy, senior senator from Massachusetts. *The Honorable Edward M. Kennedy*, SYBIL SHAINWALD: WOMEN'S HEALTH LAW., https://sybilshainwald.com/2005-06-01_SSPIL_Ted-Kennedy.htm (last visited Apr. 5, 2022); Sybil Shainwald, *2005 Sidney Shainwald Public Interest Lecture, Sen Edward Kennedy*, YouTube (Aug. 9, 2018), <https://youtu.be/oAePRr47A48>.
 8. On March 14, 2016, NYLS hosted a Shainwald Lecture featuring the Honorable George J. Mitchell, former Senate Majority Leader and U.S. special envoy for Middle East peace. *The Honorable George J. Mitchell*, SYBIL SHAINWALD: WOMEN'S HEALTH LAW., https://sybilshainwald.com/2016-03-14_SSPIL_George-J-Mitchell.htm (last visited Apr. 5, 2022); Sybil Shainwald, *2016 Sidney Shainwald Public Interest Lecture, Hon George J. Mitchell*, YouTube (June 21, 2018), <https://youtu.be/o7ejFH1QNMQ>.

Sybil graduated from New York Law School in 1976. She pursued her J.D. as an evening student after a successful career in consumer advocacy. Armed with her degree, she became one of the foremost legal pioneers in the world—a visionary who has made fighting for women’s health her unrelenting mission for the last three decades.⁹ Her impact and legacy can be seen everywhere from New York to Bangladesh.

In November 2017,¹⁰ we honored groundbreaking women Sybil Shainwald and Professor Nadine Strossen;¹¹ today, we honor another: special guest Justice Ruth Bader Ginsburg. Justice Ginsburg is, of course, a giant in our profession, and she has transcended into a singular cultural icon.¹² One of my favorite gifts from Sybil is a pair of colorful socks with Justice Ginsburg’s image on them, and I proudly and happily wear them today. I am going to leave comments about the justice’s extraordinary body of work as an attorney and jurist to the others speaking here today, Chief Judge Robert Katzmann of the U.S. Court of Appeals for the Second Circuit¹³ and Ken Feinberg, both of whom hold honorary degrees from NYLS: Ken from 2012 and Judge Katzmann from 2016.

I will say though, as a law dean who works every day with aspiring lawyers, I have never seen someone have quite the effect that Justice Ginsburg has had on our students. If you walk through this law school today, you will see not only this room filled to the max but also our auditorium and classrooms livestreaming this event. The level of student participation in today’s lecture series is truly extraordinary—I couldn’t be more proud. I do think there’s a wide range of reasons why, but the essence is that Justice Ginsburg is compelling. She came into the profession at a time when there were few women and overcame every obstacle in her path to reach extraordinary heights.

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9. For example, Sybil served as counsel in the nation’s first case involving diethylstilbestrol (DES). *See Bichler v. Eli Lilly & Co.*, 436 N.Y.S.2d 625 (N.Y. App. Div. 1981); 167 CONG. REC. E983–84 (daily ed. Sept. 17, 2021) (using the House floor to recognize Ms. Shainwald’s “unwavering” commitment to women’s advocacy).
 10. N.Y.L. SCH., 2017 GALA PROGRAM: GROUNDBREAKING WOMEN IN THE LAW (2017).
 11. Professor Strossen began teaching at NYLS in 1988; she was chaired John Marshall Harlan II Professor in 2015. *Profile, Nadine Strossen*, N.Y.L. SCH. [hereinafter *Strossen Profile*], <https://www.nyls.edu/faculty/nadine-strossen/> (last visited Apr. 5, 2022); Strossen, Nadine. 2022. Curriculum Vitae. “Faculty Profiles,” New York Law School, <https://www.nyls.edu/wp-content/uploads/2020/08/nadine-strossen-cv-2022-mar174.pdf> [hereinafter *Strossen CV*]. She took emerita status in 2020. *Strossen CV*, *supra*. Strossen also served as president of the American Civil Liberties Union from 1991 to 2008; she was the first woman named to that role. *Strossen Profile, supra*.
 12. Justice Ginsburg’s entry into pop culture stardom began with a Tumblr page created by Shana Knizhnik, then a student at New York University School of Law. *See* Shana Knizhnik, *Notorious R.B.G.*, TUMBLR, <https://notoriousrbg.tumblr.com> (last visited Apr. 5, 2022); Andrew Limbong, *From ‘SNL’ to Workout Videos, How RBG Became a Pop Culture Icon*, NPR (Sept. 22, 2020), <https://www.npr.org/2020/09/22/915610210/from-snl-to-workout-videos-how-rbg-became-a-pop-culture-icon>. Not long thereafter, *Saturday Night Live* parodied the Supreme Court justice, *The Late Show with Stephen Colbert* booked her as a guest, and an Oscar-nominated documentary cast her center stage. Limbong, *supra*. Ginsburg’s life was also depicted in the 2019 biopic, *On the Basis of Sex*. *ON THE BASIS OF SEX* (Focus Features 2019).
 13. For Katzmann’s remarks, see Hon. Robert A. Katzmann, *Honoring Justice Ruth Bader Ginsburg*, 66 N.Y.L. SCH. L. REV. 19 (2021–2022).

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At NYLS, we're proud that our student body today is 60 percent women. It's a truly incredible feat. Ruth Bader Ginsburg's career and her life convey a message that we like to impart to all of our students. She has embodied a fearlessness, a relentlessness, an unmatched grit at every step. Grit is a trait shared by many of our students, who have persevered through major challenges to make it through our doors.

When Justice Ginsburg arrived today, we greeted her with several of our student leaders, and I can't express the joy and excitement that was on their faces—it is something I won't ever forget. Her accomplishments and legacy don't just rest on historic judicial impact, but also live on in the thousands of young people like these students who look up to her as a model of what a leader in our profession and society should be. And I'm especially excited for her talk today, as we get two historic figures for the price of one with the Law School's John Marshall Harlan II Professor Strossen leading the conversation. I now turn it over to the person who made today possible, Sybil Shainwald, to say a few words of welcome.

Sybil Shainwald: Who could be a better guest of honor than Justice Ruth Bader Ginsburg? She couldn't have done more for society, civilization, and the judicial system. Welcome to the tenth Lecture in honor of my remarkable partner, Sidney Shainwald, who was extremely supportive of my attending NYLS four nights a week for four years. He believed in the Equal Rights Amendment, gave money to endless philanthropies before I did, and nobody would have enjoyed listening more to Justice Ginsburg today.

This audience is filled with people who represent Sidney's values in so many different areas. People who care about the world and who work to make it a better place. Sidney paid tribute to the founding president of Consumers Union,¹⁴ Dr. Colston Warne, on the occasion of his retirement, describing him as a “unique model, a once-in-a-lifetime production, exceedingly efficient, definitely top-rated, and the best guy ever.” The same can be said for Sidney Shainwald.

It is an honor to introduce Kenneth Feinberg, the nation's leading expert in mediation and alternative dispute resolution. He has administered numerous high-profile compensation programs and served as special master after September 11 to the Victim's Compensation Fund (VCF).¹⁵ In this capacity, Mr. Feinberg developed and promulgated the regulations governing the funds administration and oversaw the evaluation of applications, determination of appropriate compensation, and dissemination of awards totaling more than \$7 billion. Ken is now serving as special

14. Consumer Reports, formerly known as Consumers Union, is an independent non-profit organization that helps consumers make informed choices in the marketplace. *What We Do, About Us*, CONSUMER REPS., <https://www.consumerreports.org/cro/about-us/what-we-do/index.htm> (last visited Apr. 22, 2022).

15. Compensation via the VCF is intended for individuals who were present at the World Trade Center or nearby Exposure Zone, the Pentagon crash site, or the Shanksville, Pennsylvania, crash site and experienced a related illness between September 11, 2001, and May 30, 2002. *Welcome to the VCF*, SEPT. 11TH VICTIM COMP. FUND, <https://www.vcf.gov> (last visited Apr. 5, 2022). Netflix's 2021 film, *Worth*, explores Feinberg's involvement with the VCF. WORTH (Netflix 2021).

master of the U.S. Victims of State Sponsored Terrorism Fund,¹⁶ administered by the U.S. Department of Justice.

Among the numerous funds and compensation plans for which Ken has served in a pro bono capacity and as administrator are the Newtown-Sandy Hook Community Foundation, Inc. (NSHCF);¹⁷ the Aurora Victim Relief Fund,¹⁸ following the Colorado movie theater shooting in 2012; One Fund Boston,¹⁹ arising out of the 2013 Boston Marathon bombings which killed three and injured several hundred; and the OneOrlando Fund,²⁰ for the victims of the 2016 Pulse Nightclub shooting. In 2010, the Obama administration appointed Ken to serve as administrator of the Gulf Coast Claims Facility to compensate victims of the BP *Deepwater Horizon* oil spill in the Gulf of Mexico.²¹ Secretary of the Treasury Timothy Geithner appointed Ken in 2009 to serve as special master of the Troubled Assets Relief Program (TARP)²² to determine the compensation structure of the top executives at firms

16. 34 U.S.C. § 20144(b)(1)(A)(iii).

17. On December 14, 2012, a mass shooter killed twenty first-graders and six schoolteachers at Sandy Hook Elementary School in Newtown, Connecticut. Elizabeth Williamson, *A Search for Remembrance After the Sandy Hook Massacre*, N.Y. TIMES (Oct. 1, 2021), <https://www.nytimes.com/2021/05/01/us/politics/newtown-sandy-hook-elementary.html>. Following the massacre, United Way of Western Connecticut and Newtown Savings Bank created the Sandy Hook School Support Fund, and requested that the NSHCF then be established to receive dollars raised through that fund. NEWTOWN-SANDY HOOK CMTY. FOUND., INC., nshcf.org (last visited Apr. 5, 2022); Paul Heaton et al., *Victim Compensation Funds and Tort Litigation Following Incidents of Mass Violence*, 63 BUFF. L. REV. 1263, 1311 (2015).

18. The Aurora Victim Relief Fund was established after a mass shooting at a movie theater in Aurora, Colorado, on July 20, 2012, which killed twelve people and injured fifty-eight. Heaton et al., *supra* note 17, at 1309.

19. Three people were killed at the 2013 Boston Marathon after two terrorists planted homemade pressure-cooker bombs near the finish line of the race. *One Boston Day: Bombing Victims Honored with Ceremonies, Acts of Kindness*, WCVB (Apr. 15, 2021), <https://www.wcvb.com/article/one-boston-day-to-honor-marathon-victims-by-showing-kindness-to-others/36120581>. “[A police officer] was killed days later during the manhunt for the bombers.” *Id.* One Fund Boston was fast established and raised more than \$80 million in donations to help survivors and families of the Boston Marathon bombings. Mitchell Weiss, *Lessons from Boston’s Experiment with the One Fund*, HARV. BUS. REV. (Jan. 22, 2016), <https://hbr.org/2016/01/lessons-from-bostons-experiment-with-the-one-fund> (noting the function and effectiveness of One Fund Boston’s twenty-month duration).

20. The OneOrlando Fund is a non-profit organization created in response to the June 12, 2016, Pulse Nightclub shooting in Orlando, Florida, which killed forty-nine people and injured fifty-three. *Section 1: General Information, Frequently Asked Questions*, ONEORLANDO, <https://www.oneorlando.org/faq/> (last visited Apr. 5, 2022); Gregor Aisch et al., *What Happened Inside the Orlando Nightclub*, N.Y. TIMES (June 12, 2016), <https://www.nytimes.com/interactive/2016/06/12/us/what-happened-at-the-orlando-nightclub-shooting.html>.

21. The BP *Deepwater Horizon* oil spill is one of the largest in the history of marine oil drilling operations. NAT’L COMM’N ON THE BP DEEPWATER HORIZON OIL SPILL AND OFFSHORE DRILLING, *DEEP WATER: THE GULF OIL DISASTER AND THE FUTURE OF OFFSHORE DRILLING, REPORT TO THE PRESIDENT* 127, 173 (Jan. 11, 2011) (reporting that the *Deepwater Horizon* explosion killed eleven oil rig workers).

22. TARP was established in October 2008 with goals of stabilizing the U.S. financial system, restarting economic growth, and mitigating home foreclosures. *Troubled Asset Relief Program (TARP)*, U.S. DEP’T OF TREASURY, <https://home.treasury.gov/data/troubled-assets-relief-program> (last visited Apr. 5, 2022).

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that received exceptional TARP assistance. Ken was also appointed federal master of the Victims of DES²³ by Judge Jack B. Weinstein,²⁴ who is here today.

Ken was designated Lawyer of the Year by the *National Law Journal*.²⁵ I think he's Lawyer of the Century. He is listed in *Profiles in Power: The 100 Most Influential Lawyers in America*;²⁶ he is the author of numerous articles and essays on mediation, mass torts, and other matters;²⁷ he received his J.D. from New York University, where he was an articles editor of the *New York University Law Review*; he was a law clerk for Chief Judge Stanley Fuld, New York State Court of Appeals, from 1970 to 1972; he was a partner at Kaye, Scholer, Fierman, Hays & Handler from 1980 to 1993; and he founded the Law Offices of Kenneth R. Feinberg shortly thereafter. Ken Feinberg is the nation's most renowned mediator, an extraordinary man, a fabulous friend.

Kenneth Feinberg: If there's any lawyer in the United States who understands the call to service and the requirement that lawyers give back to the country, it's Sybil Shainwald. I could mention a hundred people in this room, but I must mention my colleague Camille Burrows, who right now is trying to resolve hundreds of church abuse cases in the state of New York. I also want to note that you cannot overestimate the important impact that Judge Jack Weinstein of the Eastern District of New York has had on American law over the last fifty years or more.

I would now like to introduce two people. First, the chief judge of the Second Circuit Court of Appeals, Judge Katzmman.²⁸ I can tell you, because he won't, the steps he's taken as chief judge—creative, bold outreach to the consumers of justice in

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23. See *In re N.Y. Cnty. DES Litig.*, 142 F.R.D. 58, 60 (E.D.N.Y. 1992). “DES” is a synthetic form of the female hormone estrogen found to be harmful to a woman's reproductive system in the 1970s. *Diethylstilbestrol (DES) Exposure and Cancer*, NAT'L CANCER INST., <https://www.cancer.gov/about-cancer/causes-prevention/risk/hormones/des-fact-sheet> (last visited Apr. 5, 2022).
 24. In 1967, President Lyndon B. Johnson appointed Weinstein to the U.S. District Court for the Eastern District of New York; he served for fifty-three years until his retirement in 2020. *Judge Jack Weinstein Mourned as Champion of Justice*, U.S. CTS. (June 25, 2021), <https://www.uscourts.gov/news/2021/06/25/judge-jack-weinstein-mourned-champion-justice>. Judge Weinstein also served on Thurgood Marshall's legal team in *Brown v. Board of Education*, 347 U.S. 483 (1954). *Judge Jack Weinstein Mourned as Champion of Justice*, *supra*. He passed away on June 15, 2021, at age ninety-nine. *Id.*
 25. *Lawyer of the Year / Kenneth Feinberg*, NAT'L L.J. (Dec. 20, 2004), <https://www.law.com/nationallawjournal/almID/1103138421680/>.
 26. *The 100 Most Influential Lawyers in America*, NAT'L L.J. (June 19, 2006), <https://www.law.com/nationallawjournal/almID/900005455943/the-100-most-influential-lawyers-in-america/>.
 27. E.g., Kenneth R. Feinberg, *Democratization of Mass Litigation: Empowering the Beneficiaries*, 45 COLUM. J.L. & SOC. PROBS. 481 (2012); Kenneth R. Feinberg, *How Can ADR Alleviate Long-Standing Social Problems?*, 34 FORDHAM URB. L.J. 785 (2007).
 28. Katzmman was appointed to the Second Circuit in 1999 and was named chief judge in 2013. *Katzmann, Robert A.*, FED. JUD. CTR., <https://www.fjc.gov/history/judges/katzmann-robert> (last visited Apr. 5, 2022). Early in 2021, Katzmman took senior status. Madison Alder, *U.S. Judge Katzmman Goes Senior, Giving Biden 2d Circuit Vacancy*, BLOOMBERG L. (Jan. 21, 2021), <https://www.news.bloomberglaw.com/us-law-week/u-s-judge-katzmann-goes-senior-giving-biden-2d-circuit-vacancy>. He passed away shortly thereafter, on June 9, 2021, at age sixty-eight. Tiana Headley, *Robert Katzmman, Second Circuit Judge, Legal Scholar, Dies (1)*, BLOOMBERG L. (June 10, 2021), <https://www.news.bloomberglaw.com/us-law-week/robert-katzmann-second-circuit-judge-legal-scholar-dies>.

this country, the American people and others, and we thank the chief judge for his incredible service to the nation. And finally, I want to introduce Professor Nadine Strossen here at NYLS, one of the Law School's own and a very, very important former head of the American Civil Liberties Union, who during her tenure really brought the ACLU to the forefront of modern American law. We're grateful that Professor Strossen has agreed to interview Justice Ginsburg today.

Now, before I turn it over to Judge Katzmman for personal remarks about our special guest, and before he then turns it over to Professor Strossen, who will follow with questions of Justice Ginsburg and then take questions from the audience, there is one question that I do not want you to ask of Justice Ginsburg: Do not ask her how long she plans to serve on the bench. She has told me that she plans to serve at least another twenty years.