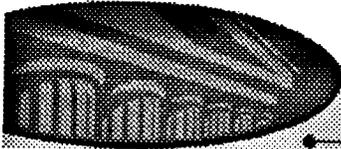


**Retirement Plans By Lawyers. For Lawyers.**  
**ABA MEMBERS RETIREMENT PROGRAM • 1-800-826-8901**



**NYLJ.com**

**New York Law Journal**

January 29, 1999

Friday  
edition

**NEWS**

- [Page One](#)
- [Today's News Update](#)

- [Impeachment](#)
- [Trial Diary \\*\\*\\*](#)
- [Tech Trends \\*\\*\\*](#)
- [Previous Stories](#)
- [Corrections](#)

**COURTS**

- [Decisions of Interest](#)
- [Previous Decisions of Interest \\*\\*\\*](#)
- [NYCourts Home](#)
- [Page](#)
- [Judges' Profiles](#)
- [Court & Judges' Rules](#)
- [Court Notes](#)
- [Consumer Law Guide](#)

**RESOURCES**

- [NYLaw Web Directory](#)
- [NYLaw Jobs](#)
- [Top 100 Law Firms](#)
- [Associate Pay Watch](#)
- [Bar Exam](#)
- [Personal Injury Awards Database](#)

**SERVICES**

- [Contact Us](#)
- [Site Guide](#)
- [A Note to Our Readers](#)
- [Quick Decision Service \(QDS\)](#)
- [Online Subscribers](#)
- [Subscriptions](#)
- [Advertising Info](#)

**Breakfast with Eliot Spitzer**

**Hosted by the New York Law Journal and the Association of the Bar of the City of New York**

**January 27, 1999**

MR. COOPER: Good morning. My name is Mike Cooper. I'm the president of the Association of the Bar, and it's my great pleasure to welcome you to meet and hear the Attorney General, the chief legal officer of the State of New York, Eliot Spitzer.

Eliot was here a little over four months ago with three other candidates in the Democratic primary, and took that occasion to tell you something about his vision for the office of Attorney General and the changes that he would make in its operation. And I guess that message got through, because he bested three other candidates in the primary and then defeated the incumbent.

We are very pleased this morning at the Association to co-host this event with the New York Law Journal, who were our co-hosts back at the candidates debates in early September. And without further ado, I would like to present the president and chief executive officer of the American Lawyer Media, Bill Pollak.

MR. POLLAK: Thank you, Michael. And thank you all for coming to the second of what we hope will be a continuing series of programs in which the Law Journal and the City Bar join to shed light on issues in this state and city's legal and judicial arenas.

The Attorney General is the state's chief legal officer. It's a position that the bar has a unique interest in and concern about. Administrator of a vast legal bureaucracy of about 500 attorneys and more than 1,800 employees, the Attorney General is the lawyer chiefly

responsible for defending the state in legal actions brought against it and in filing claims on behalf of citizens of the state.

Spread among 13 offices around the state, the Attorney General administers an annual budget of about \$140 million.

Eliot Spitzer, most recently a partner in Constantine & Partners, was an assistant district attorney in Manhattan for six years, and he rose to become the chief of the labor racketeering unit. As an assistant DA, Mr. Spitzer prosecuted the Gambino crime family, among other white collar, antitrust and political construction cases.

After his tenure as a prosecutor, he was appointed by Governor Mario Cuomo as counsel to the State Commission for the Study of Youth Crime and Violence, where he authored a report used by the Governor to reform the juvenile justice system.

A graduate of Princeton College and Harvard Law, he was clerk for Southern District Judge Robert W. Sweet and an associate at Paul, Weiss, Rifkin, Wharton & Garrison.

This fall, he won the Democratic primary against three distinguished rivals and went onto win one of the most hard-fought and, we think perhaps the longest, undecided Attorney General race in New York history.

I'm delighted to introduce Attorney General Eliot Spitzer.

MR. SPITZER: Thank you so much, Bill and Michael. I just have to observe that we were here a couple of months ago during the primary season at which point we were arrayed down this front of the rostrum, as opposed to when you win, you get elevated and you get to sit up here in what I have to confess a terribly uncomfortable and sort of monstrous looking chair. If I can avoid that in the future, I will do so.

Thank you all for being here. It's an ungodly hour for lawyers, I know. This is an early rise for many of you. One of the contrasts that I noted during the campaign was that if you wanted to meet with investment bankers you had to be there at six in the morning. If you wanted to meet with lawyers, the earliest you could possibly interest them was usually 10. And the investment bankers' knees would start shaking as the opening bell got closer.

It is wonderful to be here today as Attorney General, as you can well imagine. And I want to thank the Law Journal and the City Bar for sponsoring this opportunity that they have offered me to speak about the vision that I have for the Attorney General's office and some of the things I intend to do.

The City Bar is an absolutely stupendous institution that stands for much of what I hope the Attorney General's office will be able to do. The City Bar stands for the youth of public advocacy and the bringing together of legal wisdom to reform our social institutions and use the law in a progressive manner. And so given that long and proud tradition of the City Bar, it is a special honor to have been asked to speak here today.

I recognize that as somebody who does not have as long a tenure in public service as others who have run for Attorney General or others who have held similar positions, I'm something of a curiosity. I was not known to much of the legal community at the point when I won this office, nor was I known to much of the public. And as a result, I think that there is an obligation on my part to explain to people what it is I intend to do and what it is I certainly hope to accomplish over these four years.

The race itself was, as Bill referred to, hard-fought and somewhat lengthy, and it is somewhat surprising to a fair number of people that I won. I think it's fair to say that there were probably only three or four people in the state who genuinely expected me to win. And I may be generous when I say three or four; probably it was one or two. But, it was a victory that stood, I believe, for certain principles of advocacy and certain principles of what lawyering is supposed to be about.

As Bill mentioned, I have been a prosecutor. I have served at some of the great law firms in the state, Paul Weiss and Skadden Arps. And I had the great pleasure of being a partner with Lloyd Constantine, whom I just wish to single out as a great friend and mentor, who was chief of the antitrust division under Bob Abrams, who is also here. It's a pleasure to see him here, one of the great Attorneys General in the nation.

And it is from them that I have gotten guidance about what this office is supposed to be. Over the course of the campaign, needless to say, I traveled extensively. It was an odyssey. It was an adventure. I covered all 62 counties. I covered them many times. And we all have different ways of saying it, from Montauk to Buffalo, from Jamestown to Chappaqua, to St. Lawrence County. It is a vast state.

And when you cover so much territory and speak to as many people as I did, you learn a great deal.

Much of it is edifying. Much of it the uplifting. Much of it is not. The cynicism that we hear from the public is all too well justified. But, there is also a element of positive thought in the public that we have to respond to.

There is a notion the government can serve. There is a notion that government can provide solutions. There is a notion that if we revert to the government that we used to have in the sixties and seventies, and some of the sense that was in the public, that we, if we come together and address the issues in a nonpartisan way, can actually confront problems.

If we appeal to that notion, and not to the cynicism, then I think there is a great deal that we can do. And we can accomplish together not only through government, but in particular, as lawyers.

The question that I was asked throughout, by friends, by colleagues, was why are you doing this; why are you putting yourself through this exhausting odyssey, this travel. And it went on for many months, years, rigorous demanding schedule -- and I see Mayor Dinkins here, he has been through it, he knows how demanding public service can be, how rewarding it can be, how difficult it be at times.

But, people said to me, why are you doing this; why are you taking a career that can otherwise be comfortable and you can do many things and subjecting yourself to the rigorousness of this process.

The short answer and the easy answer, the glib answer perhaps, the one that you provide, I provided for sound bites, is that this office, perhaps more than any other given its jurisdiction, if it is combined with creative, aggressive lawyering, provides an opportunity to do more for society than any other position I can imagine.

The jurisdiction of this office is so expansive, is so elastic, that it never snaps. There is virtually no problem that you read about in the newspapers that you cannot begin to address through creative public advocacy in this office. And if, as a lawyer, you treasure and view the law as an opportunity to use the law in a way that is positive, that is affirmative, that addresses solutions, then this office, bar none, is the office that I think any lawyer should aspire to.

But, let me back up for a moment to address the question why I'm doing this in a slightly expansive way. Because, when I traveled the state, in addition to the uplifting notion that people wanted solutions and had an underlying faith in government, I also was struck, as we have all been, no doubt, by the unsettling, but unfortunately not surprising notion that there is a cynicism in our society these days that is absolutely palpable and is made deeper every day, perhaps, by what we see going on in government.

It is the partisanship, it is the bickering, it is the nastiness, it is the nature of our political discourse, it is the lack of civility in the way that we address issues. And that notion, the revulsion almost, towards government that many people express, the notion that government has become nearly one more sport to observe and laugh at, is deeply disturbing to me. The notion that you could choose to watch the World Wrestling Federation, on the one hand, or else a government debate on the other, and perhaps there wasn't much difference between the two. A political campaign has become nothing more than a choreographed effort to throw mud at the other party.

There was a deeply troubling notion among those who would speak about government and their perceptions of government that we had descended, not from Mount Olympus -- maybe we were never there -- but we had descended from the halcyon days of the sixties and seventies, when substantive issues were debated and when there was discourse and when there was serious ideological discussion, and that today, the nature of politics was pettiness and was nothing more than bickering.

And that aspect of what I heard was, of course, deeply disturbing. And I said to myself, what can we do that would be different? How can we use the Attorney General's office in some way to raise the level of discourse. I think it can be used in that way because as I said, there are few issues that cannot be addressed through this office. There are few issues that we can't begin to confront through the litigation skills of those in this office.

One of the things that I also heard was that there was a sense in the public that politics had become an undue presence in the Attorney General's office. And as I hope everybody knows, I have made a firm commitment to avoid that. I have made an absolute commitment that there will not be politics interceding in any substantive decision. Politics will not dictate or determine the hiring practices in this office. And in the first weeks as Attorney General, I think I have established that principle and I have evidenced to the public that I will act on at that principle.

And I think, and again I have to doff my hat to my partner, former partner, Lloyd Constantine, who helped me in this transition process, as did so many, but we have assembled a team of lawyers that stands for excellence.

And I think it is uniformly accepted, when people think of superb government lawyering, people think of the Southern District. They think of Mr. Morgenthau's office, the Manhattan DA's office. They have not always thought of the Attorney General's office, but I hope from this day forward, they will. And I hope that from this day forward, they will say that this is an office that stands above all else for quality, nonpartisan lawyering -- quality, nonpartisan, creative, aggressive advocacy on behalf of the public.

And when I look at those who I have encouraged to join the office and, thankfully have persuaded to join the office, I am absolutely thunderstruck at the skills they bring, the caliber of their intellect.

And when there was one dark moment in the middle of December when it crossed my mind, gee, maybe I won't take an oath of office on January 1st, maybe the UFO's really did come down and vote, maybe the aliens were omnipresent, I turned to some of the the -- we gathered as a group, and I said look, if I'm not going to be Attorney General on January 1st and you're not all going to be in the various positions which I have offered to you, perhaps improperly, we're going to form a law firm and I can tell you something, we're going to be the single best law firm in the State of New York.

And I can say to you that now that we are working on behalf of the public, I honestly believe I have assembled the single best law firm in the State of New York, and I could not be prouder of those who have joined, those who we're going to announce in the next few weeks, and the caliber of lawyering and advocacy that we will provide to the public is absolutely superb.

And when I met with Governor Pataki the first time, I said, you know what, Governor, we may disagree on things, we may have different ideologies occasionally, but one thing I can promise you, you'll get better counsel over the next four years than you did over the past four.

And I plan to live up to that. And I think he will admit it, maybe quietly, maybe to himself, but it is something that I plan to prove, not only to him, but to the public at large.

Now, what is -- as I said, this office is **and public advocacy**, generally, can be an answer to the disillusionment in the public. The law can help restore the integrity of institutions, the law can elevate individuals, point the way towards progress in society, and the law and a certain type of lawyering can do much more than that. What, of course, I'm talking about is public interest law. I'm talking about aggressive advocacy. Not Republican advocacy. Not Democratic advocacy. But, a team of made up of lawyers for the public. And that is at what we will do.

For years we have heard the right words spoken from all sides of the political spectrum. Everyone wants to clean up the environment, stop predatory conduct on the part of companies and antitrust violations, change the political order, impose campaign finance, but little of it has happened.

What I have made clear to the lawyers in the Attorney General's office is that our job is to turn the desire to accomplish those objectives into reality. And the way we will do this is through specific plans that we have begun to articulate.

\* First and foremost as of today I am creating a public integrity unit. We live in one of the largest and most progressive states in the union. We also live in a state that falls short when it comes to insuring the integrity of our public institutions.

Today I'm announcing the creation of a public integrity unit within the AG's office that will investigate and root out corruption throughout the state.

I want to send the signal to you as my fellow members of the bar that if you know of corruption in contracting, in procurement, in false billings of state agencies, we want to hear about it.

I want to further send the signal that if local prosecutors are unable or lack the resources to prosecute these cases, we will do so and we'll do it aggressively.

And I want to say something about the dedicated public servants, in and out of uniform, who are aware of impropriety in their midst. You have a place to go. We will listen to your complaints. We will take them seriously, and we will pursue them, every single one.

I have asked the very best lawyers in the office to create this unit and the mandate is to shine light into the dark corners of the state and to make sure that those who thrive on secrecy and obfuscation, no longer do so.

A goal of the public interest law firm operating in the people's good also means that we have to address a litany of other issues that are often given lip service, that are also ignored. This means not just handling individual cases that is resolve problems between litigants, but taking on those systemic cases that can have an impact throughout an industry or throughout a piece of society.

Let me just run through a few the industries where I think we can do that. The telecom industry. Clearly this is an industry in flux, an industry in turmoil, an industry where, by design, the federal government has passed a statute which is designed to bring the forces of competition to bear, to shake things up, so that we can generate competition, not only in our local phone services, but in cable, in Internet service, so that we can see the convergence technologies and resources and capital that will benefit consumers and continue to generate the excitement in our economy that we need.

But, it hasn't happened. For better or for worse, it simply hasn't happened. And I have said to the lawyers in the telecom unit, who are absolutely stupendously skilled, what can we do structurally that will induce competition, what can we do to reduce the barriers to competition, even in the context of the Supreme Court opinion on Monday, that certainly reinforced the FCC's power to handle these issues.

We as advocates, forceful advocates before the PFC, will be in a very critical position to ensure that the local phone companies reduce the barriers to entry and do everything that is possible to create local competition in the local phone markets.

We're going to pursue that. This will have a tremendous impact upon consumers across the state. Will we also handle the smaller cases, telemarketing scams, telemarketing frauds that pray upon seniors? Of course we will. But, we will try to look at the systemic case to change an industry that needs to be changed.

Health care, one other industry that is, of course, in absolute turmoil. Where is it going? We simply don't know for sure. But one thing we do know is that this is an industry that needs to be reformed.

Will we take on the easy cases, perhaps not so easy, but the cases to ensure that HMOs and managed cares companies pay providers on schedule so that doctors and hospitals and patients are getting the checks that they are owed? Of course we will. And we have some lawyers in the office who have been absolutely stupendous at doing that.

But will we also try to take on the larger structural cases such as the conversion of some not-for-profits to for profit status. Multibillion dollar transactions that will have an enormous impact on who gets insured, how they get insured, what coverage exists for people.

Those cases demand our attention and ultimately are the critical cases that we have to pay attention to.

In the area of utilities. Again, an industry that is in absolute turmoil as we try to move from the regulated environment to a deregulated environment. Here again we have to make sure that transition occurs in a way that promotes competition, benefits consumers and generates the lively business environment that this state demands.

Does that mean that, again before the PFC, we will try to redefine stranded costs and who has to bear the burden of these stranded costs, such as the Shoreham Power Plant that perhaps never should have been built and if it was who should bear that financial burden?

We are going to take on these tough issues. We will have tremendous financial ramifications. We do not underestimate the difficulty of getting involved in these cases. But, again we need to handle the systemic litigation, otherwise we are abdicating our responsibilities.

Likewise in the area of the environment, we will take on and go after those individual polluters and do it aggressively. Even in today's Times you will see a report of a settlement that was somewhat innovative -- a \$500,000 fine that is being paid, but establishes the principle for the first time that pollution that closed a waterway can lead to the imposition of substantial damages even without the proof of the economic harm. The simple closure of the waterway was the predicate to substantial fines and penalties.

We are going to bring those creative cases and we are also going to jump in very quickly to find out where are their hot spots. Who are the persistent polluters, and how can we make sure that our environmental laws are enforced and how can we make sure that

those communities in which all too often dumps and transfer stations are sited without regard to the needs of those communities to make sure that these environmental justice issues are addressed aggressively.

Likewise, as I announced on Friday, we will jump into the issue of clinic access. I have created a unit to address that issue and it is an issue that goes beyond merely the issue of reproductive rights. This above all was an issue of the rule of law. As fervently pro-choice as I am. The reason we had to create a clinic access unit was because the rule of law had been denied, had been violated and the level civil discourse in our society had been diminished.

In a state which has been the home to the genesis of the women's movement, the labor movement, the civil rights movement and the environmental movement. A progressive state that has a tradition not only of progressive policies, but of discourse that is handled in an elevated way, we have begun to see violation become part of the political process. That simply cannot be tolerated.

And it is because of that -- it is because of that above all that I said to those in my office, we must create a unit dedicated to ferreting out those who would use threats, harassment, intimidation as tools in the political debate. We simply cannot permit that to occur, regardless of the political perspective of those who make the threats. This is about the rule of law. It's about elevating our political discourse and it's something we have a moral obligation to do.

What all of these issues come back to is public integrity. This is the operating principle that drives our agenda, my greatest hope is by measuring all of my initiatives against that principle, I'll be able to return to the citizens of the state at some point in the future and say, have we made progress; have we elevated our political discourse. You have lawyers advocating on your behalf who are addressing the serious issues, providing you good counsel, addressing the structural problems in our society, using the law as it best can be used in a progressive manner to change policy to represent those who don't have representation, to protect the state and define the sorts of policies that we believe in.

Today I have just touched on a few of the areas where I think we can be effective. There are obviously many, many more, and the jurisdiction of this office as I said at the beginning is so enormous and so elastic that it simply is remarkable and exciting every morning to wake up and think about what we can do.

Where I think a newly energized Department of Law can make a positive contribution, we will use resources to be there. And I'm determined to move forward in each area. Not out of a lofty idealism, not out of overzealousness. Not out of a belief that government is the answer to our problems, but with a conviction that an Attorney General can and should be known as a hard-nosed, aggressive, creative lawyer.

When I look back at the proud tradition the government advocacy in this country and in New York State in particular, I look at Frank Hogan, I look at Robert Morgenthau, Louis Lefkowitz, Robert Abrams. These are the people whom I wish to emulate. Those are the names I admire. Those are the individuals whose names I would like to be listed with someday.

I have a long way to go before I can be listed in that proud roster and I see Abrams here and I'm honored to be with your presence and I'm honored to follow in an office that he'd used as effectively as the position can be used to create and pursue public advocacy.

Now as I pursue this approach, I predict that something interesting will happen. For a while people will be confused. They will look at some of the initiatives and say, he's liberal. They will look at others and say, he's conservative. They will see me standing next to Governor Pataki on some initiatives. They will see me standing next to Shelley Silver on others. They will see me disagree with George Pataki and Shelley Silver frequently.

What this stands for, I think, is the notion of the independence, nonpartisanship and openness necessary to those solutions that would work and an effort to use this office in the best interests of the public, without regard to politics.

In the end, I hope that everyone, but especially those of you in this room, those members of the bar who understand what a powerful tool the law can be, who recognize a strong and principled commitment to public interest law in this Attorney General's office. In this regard, my ultimate goal is for the New York State Department of Law to be known and be looked at as the finest public interest law firm in the nation.

We can and will achieve that goal by working hard, by taking advantage of the talent in the office and the talent in this room, and in that regard I will be looking to you for advice, for wisdom, for ideas, for cases, for the honest commentary where you think I have gone

wrong.

I'll always be accessible to you in this room, those members of the bar who have experience, who have wisdom, who are thoughtful on these issues, and I will tell you, please, call me, call those on my staff, express not only those moments when you think we're doing that which is good, because that will always nice to hear, I can promise you. But, also when you think we're going in a direction that is wrong, because that is also important to hear.

And if you do that and if you reach out to us and give us that advice, I can promise you in return that we will do everything on our side to be forceful and be tough on behalf of the public.

Thank you very much for permitting me to speak this morning.

MS. HOCHBERGER: Thank you, Eliot. My name is Ruth Hochberger. I'm the Editor-in-Chief of the New York Law Journal, which I invite you all to take a copy of on your way out. We have received dozens of questions by fax and e-mail -- many of which involved how do I get a job with the Attorney General's office, how do I get out of the state's new continuing legal education requirements -- from which we have selected a few, not on those topics, to ask here.

We'll alternate the questions we have received with some from the audience. Since the Attorney General is on a tight schedule and his time is limited, we ask all those asking questions from the floor to please limit their questions to about 30 seconds. And we will try to limit Mr. Spitzer's responses as well, in order to get as many questions in as possible. Thank you in advance for your cooperation in this.

The first question is one that we had that came in by E-mail. Dennis Vacco has a poor record on civil rights enforcement. How will you expand the role of the Attorney General in this area and would you be willing to take a look at complaints of civil rights violations against the New York City Ppolice Department?

MR. SPITZER: The easy answer is, yes. We will be looking at issues and it fits not only within the public integrity unit that I have announced this morning but also generically, of course, civil rights issues. And I have made it very clear and I believe it's squarely within the mandate of this office to examine civil rights abuses by any governmental authority, no matter where that may be.

So, yes we will examine those cases and we have already moved to expand the range of cases that will be handled by the Civil Rights Bureau. Without looking backward, I think there is nothing to be gained any more by retrospective analysis of what happened in the past four years. I can merely say there will be a much more aggressive civil rights agenda over the next four years.

We have already begun a significant number of cases, which I am not at liberty to talk about. We have already begun looking at some very tough issues and we will move quickly on them.

MS. HOCHBERGER: Thank you. Go ahead.

\* MS. SASSOWER: My name is Elena Sassower, I'm the coordinator of the Center for Judicial Accountability. I want to congratulate you and thank you for making as your first priority here the announcement of a public integrity unit. Indeed, that was the first question that I submitted by E-mail and by fax, what had become of that pre-election proposal. So, I am really delighted and overjoyed.

Let me just though skip to my third question that I had proposed today, and that is, that I would hope that a public integrity section would also examine the practices of the Attorney General's office in defending state judges and state agencies sued in litigation.

As you know, we ran a \$3,000 public interest ad about the fraudulent defense tactics of the Attorney General's office.

MS. HOCHBERGER: Is there a question?

MS. SASSOWER: Yeah.

MS. HOCHBERGER: Could we get to the question.

MS. SASSOWER: What steps are you going to take in view of those allegations that the Attorney General's office uses fraud to defend states judges and the State Commission on Judicial Conduct sued in litigation.

MR. SPITZER: Anything that is submitted to us we will look at it.

**MS. SASSOWER:** I have it. I have it right here.

**MR. SPITZER:** Okay. Why did I suspect that? Thank you.

**MS. HOCHBERGER:** This one also came in over E-mail.

What are your views on the unauthorized practice of law generally, and specifically with respect to the unauthorized practice of immigration law in New York? How will your office deal with it?

**MR. SPITZER:** It is an area where the Attorney General's office has enforcement authority, as I was reminded this morning by my very good friend Ed Meyer. We have co-authority to enforce those rules with the Board of Regents, and we will do so aggressively.

I think it does raise interesting issues in areas of the law where there is, frankly, not sufficient representation. And immigration law in particular is one such area. So I know there have been some grave proposals over the years to permit some non-licensed lawyers to give advice up to a certain threshold in those areas, but it's obviously an area where we will be aggressive in our enforcement where it's appropriate.

**MS. HOCHBERGER:** Yes.

**A SPEAKER:** Good morning. It sounds like we're ready for an E-ride for those of you that remember Disney.

What role do you see or foresee for the judicial system, meaning the courts, the bar, your office and other offices with respect to the YK issues that may or may not manifest themselves.

**MR. SPITZER:** Well, the first thing I have done is to try to see where the Attorney General's office is in terms of being prepared for this problem. And I don't yet have a clear answer in terms of where we are in terms of getting our computer systems ready for the -- for that moment. And obviously people are more worried about hospitals and getting paychecks and the banking system crashing. But, I think we will be prepared.

What role generally there is for lawyers, I really haven't thought about that in particular.

**MS. HOCHBERGER:** This came in from the City Bar Committee on Alternative Dispute Resolution.

What plans do you have to use mediation and other alternative dispute resolution processes?

**MR. SPITZER:** We actually do so quite extensively, especially within the consumer fraud bureau, where we try to mediate most disagreements, since we feel that that is a better means to resolution, faster -- it's going to produce faster resolution than would standard litigation. And I think we have to work generally in the judicial system to see if we can move some cases that are currently in litigation into alternative dispute resolution.

ADR has proven to be more efficient, it's better for certain types of disputes and so we have to take a good hard look at it.

**MS. HOCHBERGER:** Over here.

**A SPEAKER:** Good morning. It appears that Microsoft has repeatedly violated antitrust law, market after market, time after time. And that the break-up of AT&T appears to have benefited the economy overall. What would you think of breaking up Microsoft into, say, an operating system company, a software company and an Internet company?

**MR. SPITZER:** I don't want to speak directly to what remedies may or may not be called for in the Microsoft litigation. As you probably know New York State is a party to that litigation. It's a litigation that's ongoing. Testimony is being heard right now on the liabilities phase and if, in fact, there is a finding that there is liability, then there will be a subsequent phase dedicated just to the proposed remedies.

So, I don't think it would be proper now, prior to the judge's determination of liability, to address that.

**MS. HOCHBERGER:** Do you plan to devote more resources than your predecessor to consumer fraud issues.

**MR. SPITZER:** The answer is yes. And I think it also speaks to how you define consumer fraud problems. I have always viewed the antitrust law as the most important consumer protection statute, just because competition inherently is the best way to ensure that consumers get their value for what they spend.

So, we are going to have not only a broad, expansive antitrust agenda, but also pursue through the consumer fraud bureau the sorts of complaints that traditionally get referred to the office.

MS. HOCHBERGER: This side.

MS. STALK: Yes, I'm Evelyn Stalk. I'm president the League of Women Voters of New York State.

You mentioned campaign finance reform in your prepared remarks. Can you expand on that in terms of what role you would have.

MR. SPITZER: Yes. Let me not say too much because we're going to put out an entire set of proposals in a few weeks. But, what I have spoken to is the need to fundamentally change the way the campaigns are financed in New York State, change the enforcement mechanisms and change access to information.

One of the more frustrating things is, of course, is there is inadequate access to information.

MS. STALK: Bravo.

MS. HOCHBERGER: What are your objectives for the Charities Bureau and in which areas of investigation, compliance or enforcement do you see its efforts directed?

MR. SPITZER: The charities bureau is an underappreciated bureau, frankly, from the perspective of the most of the public.

The Charities Bureau currently, and I don't think I should comment specifically on the cases, is handling the conversion of Blue Cross/Blue Shield from a not-for-profit to for-profit status, and it's handling major investigations that are of great import.

New York State is, perhaps, the capital of not-for-profit entities worldwide. I say, perhaps, only because some of the vast profits that have been made in some of the computer industry investments over the past years have generated not-for-profits out in California and Texas. But, New York still in the epicenter of not-for-profits. So the Charities Bureau has jurisdiction over this entire range of not-for-profits, and examines not only how the funds are being spent,

but also handles diverse issues such as the convention of Blue Cross/Blue Shield.

So, it has a tremendous capacity to affect the health care industry, to ensure that foundations are spending their money wisely and we're going to be putting tremendous resources into ensuring we do that aggressively.

**MR. STEINBERG:** Yes, good morning. My name is Chaim Steinberg. I'm an attorney in Brooklyn. I would like to make you aware of a situation. If you don't know already, there are rabbis in Brooklyn, with an effort to impose their control on other people, convene what they call to be courts, try people in absentia, and even have people kidnapped, beaten and tortured and because of their political power, Mr. Hynes has refused to do anything about it despite overwhelming evidence.

I would like to know if your office will take a look into that.

**MR. SPITZER:** Well, without accepting the notion that Joe Hynes, for whom I really have tremendous respect, would turn his eyes away from such evidence, if you have evidence, certainly, you can send it into us.

**MR. STEINBERG:** Thank you.

**MS. HOCHBERGER:** Janet Reno recently refused to defend the constitutionality of a federal statute she considered to be clearly unconstitutional; a law criminalizing the giving of certain legal advice which was successfully challenged by the New York State Bar Association. The Massachusetts Attorney General has, on occasion, refused to defend against challenges state regulations which are contrary to law.

Do you believe you have the authority to refuse to defend state statutes that are unconstitutional or to refuse to defend state actions or police actions which are illegal? Will you exercise this power in appropriate cases?

**MR. SPITZER:** Yes. I don't mean to make light of what is a very difficult theoretical issues because this really gets knotty issues of -- and in fact I think there is going to be a forum here in a few week about who is -- for government lawyers, who is the client, where do the bounds of discretion permit you to go as the government lawyer

in terms of either refusing to defend certain types of actions or giving advice to the client, as it were, a government agency or an individual member of government, that the acts he or she committed are simply wrong and can't be defended.

These are very difficult issues. Simply put, where there is a statute that I believe to be unconstitutional, my office will not defend it.

MS. HOCHBERGER: Yes, sir.

MR. PATBURN: Good morning, I'm Maurice Patburn. I'm chairman of the Business Labor Community Coalition for New York. I'm an old friend of Eliot Spitzer and Bernard Spitzer, his father, and the family.

More than three or four of the people in my family have been actively working for your election, it's no secret. And we'll thrilled to be here today to honor you.

My purpose in making this public announcement is to suggest that you have put forward such an ambitious agenda, that I seem to feel concern that your staff will be inadequate for the purposes that you have at some a broad agenda. It's elastic and it can grow and we will like to help that to grow. But there is another opportunity that I would like to suggest.

We at the Business Labor Community Coalition have been involved in a series of major issues in New York economic and social development, as you know, and I don't know to get into the specific issues this morning, which you have begun and I have begun to talk about. But, I would like to suggest that there is a public advocacy availability resources there are thousands of lawyers who are not members of your staff, some of them may be members of the Business Labor Community Coalition, I hope more.

There are thousands of business leaders in the City of New York that have issues and concerns and I would like to suggest -- and labor leaders of a similar character who are concerned about the City of New York. If we can establish a task force on public issues and public advocacy that can work with your office we could amplify your projects and deal with them.

And one last note, it's a bug of mine, the public issues that have been addressed in the campaign have avoided one major issue area and

that's the inadequacy of low rent and moderate income housing. There is no program in the City and State of New York. I believe an investigation of the state DHCR and the UDC and other housing agencies will show the kind of corruption that has permitted a series of horrors to go forward and the bigger issue of how --

**MS. HOCHBERGER:** I have to cut you short.

**MR. PATBURN:** I'm finished. Just how do we create an additional issue for your plate.

**MR. SPITZER:** I appreciate it. Just when we need more issues. In terms of the size of the office -- it is an ambitious agenda that we have set out and I think we're going to have to use our resources wisely and I'm heading up to Albany to beg and plead with the Governor to give us more funding for more lawyers, so we will see where we go.

**MS. HOCHBERGER:** How do you plan to combat corruption in the management of residential condos and co-ops.

**MR. SPITZER:** Let me say that there is -- I'm quite sure significant investigations are ongoing right now in another office and so I think that is being addressed rather aggressively. And it is my understanding that there have been -- has been significant progress made as a result of that investigation. So, I don't think at this time it would be wise to step on the toes of somebody else who is handling that pursuit. I'm keeping an eye on it.

**MS. HOCHBERGER:** This side.

**MR. FREEDMAN:** My name is Leon Freedman. I'm on the Capital Representation Committee of the City Bar Association and I have some questions about the death penalty.

There are three issues relating to the death penalty that have been very current. Number one, the Court of Appeals reduced the hourly rate of lead counsel from \$150 to \$100, and second counsel from \$125 to \$75. Second, the Court of Appeals held that a criminal defendant against whom a notice to seek the death penalty has been filed cannot plea bargain -- cannot plead guilty because that would impose an undue burden on the right of jury trial. And three, there is the whole issue of Governor Pataki removing District Attorneys and having your office substitute. I'm wondering if you could comment

on --

**MR. SPITZER:** On all three. The first issue is not one which I'm really empowered to address. Obviously, it raises some problems and I appreciate those problems.

I try very hard certainly at this stage in my tenure not to disagree too publicly and openly with Judith Kaye, who is a party to that opinion, so I won't say too much on it, although I understand your perspective and the harm that will result, perhaps, from the reduction in the hourly rates that you referred to.

The second issue really comes down to whether or not we seek to serve on that case, which is a decision we have yet to make. There are, perhaps, some mootness issues given, pleas that have been entered by the individual -- at least one of the individuals and perhaps both who were a party to that litigation in the New York Court of Appeals, so I'm not sure if there will be an effort to go up the chain on that, to overturn that case. It was an interesting opinion and I'm just not sure what we'll do on that.

In terms of the third issue I have -- the Governor's authority to supersede a District Attorney was upheld by the New York Court of Appeals, obviously, as you know in, the Bronx case. While I disagreed and said so at the time with the Governor's exercising his authority to supersede on the facts of that case, I think it's well established that he has the capacity to supersede and if asked to do so, it would be my obligation to take a look at the case independently, to then determine whether or not whatever case it might be is an appropriate death penalty case.

**MS. HOCHBERGER:** This is from the Consumer Affairs Committee of the City Bar.

What can you do as Attorney General to make the State Department of Banking more proactive in investigating consumer complaints, particularly in connection with real estate brokers who refer consumers to unlicensed home improvement contractors and mortgage brokers who engage in predatory lending and home equity scams?

**MR. SPITZER:** Well, whoever asked that question stumped me. I'm not sure. I was not aware that this was perceived to be a problem. If it is, obviously, we can call over to the Department of Banking and let them know that there is dissatisfaction and take a look at the

number of referrals, the number of inquiries, to see what they are doing. But, this is the first time I'm hearing of that particular problem.

MS. HOCHBERGER: Okay.

MS. WEISHAUS: My name is Gisela Weishaus. I'm a Holocaust survivor and I'm -- the main thing has been the Swiss banking case. But, I came here for a different reason.

I have two cases in the state court where they don't rule according to the law. They take my property away and I'm speaking here on behalf of four women who are in the same situation like me. And we just asking you should investigate our grievances. And that's the only question. We are trying to go to all the agencies. So far, we didn't get any help.

So, I hope this time, Mr. Honorable Eliot Spitzer, we are told before that you have a group of lawyers who will do this things. So this I'm asking for.

MR. SPITZER: We will look into it. Thank you.

MS. HOCHBERGER: One more question.

A SPEAKER: This is related to the question about DHCR corruption, mildly. But in a more broader sense, following the theory that bribery is a protected state activity.

MR. SPITZER: I'm not sure we stated it quite that way. I hope we didn't.

A SPEAKER: And this was argued under your name last week before a three-judge panel. And they also are using your office, the lawyer in your office is actually representing private defendants.

Is there a way to bring cases like this to your attention so that you can review them? I mean, if you want to do that, that's fine.

MR. SPITZER: Well, I hope that you're characterization of the case is just a little bit off, but, obviously, I will review this with an open mind. If you could let me know the name of the case and I will track it down immediately.

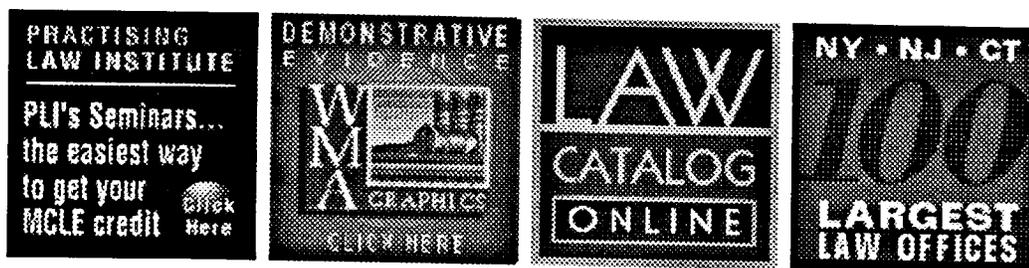
A SPEAKER: Okay. Can I bring that to you after?

MR. SPITZER: Absolutely.

MS. HOCHBERGER: Great. Thank you, Eliot. In the interest of getting the Attorney General to his next appointment, I think we're going to stop here. Thank you to the --

MR. SPITZER: Ruth. Thank you so much.

MS. HOCHBERGER: Thank you. Thank you to the City Bar.



Send comments to [talk@nylj.com](mailto:talk@nylj.com)

Copyright © 1999 NLP IP Company, All Rights Reserved  
Access to NYLJ.com is governed by its [Rules of Use](#)