

Fall 10-30-1991

Century of 2d Circuit Appeals: .500 Average With High Court (New York Law Journal)

New York Law Journal

Century of 2d Circuit Appeals: .500 Average With High Court

BY DEBORAH PINES

*N4LJ
10/30/91*

A STUDY OF Second Circuit rulings since 1891 that have been reviewed by the U.S. Supreme Court — according to subject matter, Circuit judge and outcome — reflects the nation's changing character and the Second Circuit's contributions to the law, a federal appeals court judge said this week.

In a speech on Monday marking the 100th anniversary of the U.S. Court of Appeals for the Second Circuit, Circuit Judge Roger J. Miner released a study he called a "work in progress" of the

1,041 Second Circuit cases that have been reviewed by the High Court.

RULINGS BY AREA OF LAW — PAGE 2

The study breaks out results of cases reviewed in 40 categories and signed by the 49 judges who have sat on the court since its first session on Oct. 27, 1891.

Among the highlights of the study are:

- Of the 1,041 cases heard, 519

Continued on page 2, column 3

2d Circuit Appeals

Continued from page 1, column 5

were affirmed; 500 reversed and 22 were affirmed in part and reversed in part.

• By category, the type of case reviewed most often involved tax law, 144; followed by admiralty, 104; bankruptcy, 77; intellectual property, 71; labor and employment, 58; civil procedure, 55; and jurisdiction, 54.

• Of the 18 active and senior circuit judges now on the court, seven have been affirmed in 50 percent or more of their signed decisions: Roger J. Miner (100 percent); Thomas J. Meskill (83 percent); George C. Pratt (71 percent); Lawrence W. Pierce (66 percent); Ralph K. Winter (56 percent); and Amalya L. Kearse and Richard J. Cardamone (50 percent).

• Three of the court's newest members have had no signed decisions reviewed by the U.S. Supreme Court: Frank X. Altieri, John M. Walker Jr. and Joseph M. McLaughlin.

The Second Circuit's overall batting average is "not too shabby," Judge Miner told Monday's gathering sponsored by the Federal Bar Council and the Second Circuit Committee on Historical and Commemorative Events. Judge Miner is chairperson of the historical committee.

"Any batter who hits .500 consistently for 100 years is pretty good indeed," he said.

His speech in the U.S. Court House at Foley Square inaugurated the opening of an historical exhibit in the courthouse lobby, "Colleagues for Justice: One Hundred Years of the United States Court of Appeals for the Second Circuit." The exhibit examines the judges who have served since 1891 on the Second Circuit, which hears appeals from the federal trial courts in New York, Connecticut and Vermont.

Judge Miner called the outcome of the cases interesting but not the Second Circuit's greatest contribution.

"It is extremely doubtful whether any other circuit has provided such clearly-focused lenses for the Supreme Court to view the most important legal and constitutional issues that have confronted the nation during the past century."

The judge also noted that a review of the cases reveals the "sweep of history." For instance, he said the number of Second Circuit admiralty cases fully reviewed by the High Court dropped from 21 in the circuit's first two decades to five in the past two decades. While there were no securities cases reviewed in the first two decades, there were 14 in the past two, according to his study.

Breakdown By Subject Matter Of U.S. Supreme Court Rulings On 100 Years of 2d Circuit Cases

Area of Law	Affirmed	Reversed	Aff/Rev In Part	Total Rulings
Administrative	9	14	0	23
Admiralty	50	51	3	104
Antitrust	17	13	0	30
Banking	8	8	0	14
Bankruptcy	50	27	0	77
Civil Procedure	28	28	1	55
Civil Rights Act (Title VII)	5	1	0	6
Commercial	4	3	2	9
Commodities, Duties & Tariffs	8	10	0	18
Constitutionality	8	8	0	16
Contracts	16	8	0	24
Copyright, Trademark & Patent	c13 t 4 p19	6 9 17	1 2 0	20 15 36
Corporations	6	6	0	12
Criminal Law (General)	6	9	0	15
Criminal Procedure	19	31	0	50
Federal Arbitration Act	1	3	0	4
Federal Tort Claims Act	4	1	0	5
Fifth Amendment	8	6	0	14
First Amendment	6	7	1	14
Fourteenth Amendment	8	9	1	18
Fourth Amendment	10	5	1	16
Habeas Corpus	4	12	0	16
Immigration	17	23	1	41
Insurance	4	8	0	12
International Law	2	5	0	7
Jurisdiction	18	33	3	54
Labor & Employment	35	21	2	58
Prohibition	7	4	0	11
Real Property	1	2	0	3
RICO	1	1	0	2
Section 1963 (42 U.S.C. §1963)	1	3	0	4
Securities	6	13	0	19
Seventh Amendment	1	3	0	4
Sixth Amendment	0	3	0	3
Sovereign immunity	2	2	0	4
Statutory Construction	23	17	1	41
Tax	80	61	3	144
Torts	3	6	0	9
Wills, Trusts & Estates	4	1	0	5
Other-Miscellaneous	5	4	0	9
TOTAL	519	500	22	1,041

SOURCE: Study by Judge Roger J. Miner