



by Philip R. Schatz

# Hon. Harold Baer Jr. U.S. District Court for the Southern District of New York

**H**on. Harold Baer Jr. of the U.S. District Court for the Southern District of New York died in May 2014, from complications following a fall. At the time of his death, he was still performing full-time duties as a senior U.S. district judge. He leaves behind a powerful legacy of commitment to equal rights and diversity.

### Proud Product of New York City

A close reader of the *New York Times* for Feb. 18, 1933, would have noticed this small announcement that the population of the country's largest city had just increased by one new baby boy:

#### The Harold Baers Have a Son.

A son was born to Mr. and Mrs. Harold Baer of 240 East Seventy-Ninth Street, last Thursday at the Lenox Hill Hospital. Mrs. Baer is the former Miss Edna S. Jacobus of this city.

As Judge Baer sometimes joked, he was extremely lucky in his choice of parents. His father, Harold Baer Sr., was a lawyer and later a justice of the New York State Supreme Court.<sup>1</sup> His mother, Edna Jacobus, earned both a law degree and a master's degree in social work and served as president of the board of trustees of Columbia's School of Social Work. Both parents were prominent, respected, and successful New Yorkers, and both worked tirelessly on behalf of the less fortunate.

After high school at Bronx Science, Judge Baer went to Hobart College in New York's Finger Lakes region. "I wanted to go to Cornell, but Cornell didn't want me," he laughed. "It's just as well; Hobart turned out to be the right place for me." Judge Baer graduated magna cum laude from Hobart with a degree in history and then earned his law degree at Yale.



Before becoming a federal judge, Baer had a distinguished career in private practice, both as a partner engaged in white-collar criminal defense at Guggenheimer & Untermeyer and as the executive judicial officer of the newly formed Judicial Arbitration and Mediation Services. But he really made his mark in public service, as a federal prosecutor, bar association president, state court judge, and member of the famous Mollen Commission investigating police corruption.

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## **Federal Prosecutor Under Robert Morgenthau and Whitney North Seymour**

Judge Baer was one of the original 13 people hired by then-U.S. Attorney Robert Morgenthau, under whom he served as the chief of organized crime and racketeering. Morgenthau is a titan of the New York City bar. He was Manhattan's district attorney for 35 years after his federal service. Now 95, he still practices law, at Wachtell, Lipton, Rosen & Katz.

"Harold was a relentless and independent investigator," says Morgenthau. "He followed the trail wherever it led him. He didn't care if he ruffled prominent people. His grand jury questioning was fearless." The focus of Judge Baer's grand jury investigation was racketeering in the garment industry. He examined David Dubinsky,<sup>2</sup> the pugilistic president of the International Ladies Garment Workers Union, a seasoned union heavyweight whose voice "started at a shout and went up from there."<sup>3</sup> Judge Baer's questioning was so bruising that Dubinsky complained to Attorney General Bobby Kennedy. "Harold Baer was a great credit to the office of United States Attorney," says Morgenthau.

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Whitney North Seymour Jr., known to his friends as "Mike," became the Southern District's U.S. attorney after Morgenthau. Seymour, too, is a luminary of the New York City bar and still active into his 90s. Judge Baer served as chief of the SDNY Criminal Division under Seymour, and Seymour became Baer's lifelong mentor. "I owe much of what I have accomplished in life to Mike Seymour," said Judge Baer. Seymour is equally willing to credit Baer. "Harold, like Justice Thurgood Marshall, believed the law should be fair," explains Seymour. "He had an intense passion to help people."

## **President of the New York County Lawyers' Association, Founder of Network of Bar Leaders**

That passion to help people made Judge Baer prodigiously active in bar association activities.

New York City has two citywide bar associations, the New York City Bar Association (the "City Bar," formerly the Association of the Bar of the City of New York), located in midtown, and the New York County Lawyers' Association located downtown. The NYCLA was formed in 1908 to protest then-existing discriminatory membership practices at the City Bar, which has long since removed any barriers to membership. The two organizations now engage in friendly competition and frequent collaboration, and many New York City lawyers are members of both.

Judge Baer was named NYCLA's president and made the extraordinary determination that his own bar association didn't fully represent the interests of all lawyers practicing in New York City. "There were a lot of lawyers who weren't

members of the 'moneyed' bars [like NYCLA and the City Bar]," said Judge Baer, "and whose interests weren't necessarily being heard."

Characteristically, he proposed a solution, starting an inclusive new organization combining the leaders of the city's many smaller, more specialized bar associations and the leaders of the "moneyed" bars. The resulting Network of Bar Leaders is New York City's most diverse bar association, giving voice to the many minority, ethnic, specialty, and women's bar associations in the city. Ray Dowd, an art litigator at Dunnington, Bartholow & Miller LLP and a past president of the network, says Judge Baer formed the network "to give diverse lawyers a seat at the table with the most powerful, an idea that was controversial at the time." The incoming president of the network, Queens County Supreme Court Justice Bernice Siegal, says that "Judge Baer opened up the halls of justice to practitioners who otherwise were not allowed in the room," and promises to harness the network's collective power to carry on his mission of openness and inclusiveness.

## **State Court Judge: Happenstance or Fate?**

One might contend that Judge Baer became a justice of the New York State Supreme Court in 1982 by sheer accident. Most judges are elected in New York state. Within New York City, the candidate endorsed by the Democratic Party is ordinarily guaranteed election. As a last-minute nominee of the tiny Liberal Party (of which his parents had been founders),<sup>4</sup> with no Democratic endorsement after stepping down as nominee for lieutenant governor, Judge Baer normally would have had no chance. But the Democratic nominees were stricken from the ballot after party leadership missed a filing deadline, and Judge Baer was elected—"the first time since Fiorello La Guardia's years that non-Democrats won a borough judgeship."<sup>5</sup> "My father thought this was the most wonderful thing that could have possibly happened," chuckled Judge Baer.<sup>6</sup>

But one could make a solid argument that he was fated to be a judge. He was sworn into office by his father, who received a special dispensation to administer the oath. Some years after his election, Judge Baer was assigned the same chambers as his father, who had retired in 1977. When he opened his chambers' closet, he found his father's old robes, bearing the initials "H.B."

As a New York County Supreme Court Justice, Judge Baer was always respected but sometimes also feared. "He ran a tight ship," says Herbert Rubin, the founding member of Herzfeld & Rubin, and another notable New York City attorney still practicing law into his 90s.<sup>7</sup> "He expected lawyers to be prepared and keep their commitments." "He was always prepared, and expected lawyers to be prepared too," says his former law secretary and current first deputy chief clerk of the New York County Supreme Court, Robert C. Meade Jr. "He truly believed justice delayed is justice denied, and felt that courts should work with as much dispatch as possible."<sup>8</sup>

Unlike his father, who never lost his temper and was considered a model of judicial decorum, Judge Baer could

be irascible. “I wish I had my father’s judicial temperament,” he said. “I have a note on my bench to remind me to keep my temper. If I had my druthers, I’d spend 15 minutes a day meditating or doing yoga.” Seymour says there was more similarity than difference. “He had the same chambers and the same robes, and the same progressive sense of fairness.”

### A “One-Man Law Improvement Commission”

This sense of fairness was paired with intellectual curiosity and “can-do” attitude. “Judge Baer thought a lot about what he saw,” says Craig A. Landy, his first law secretary, a partner at Peckar & Abramson, P.C., and a former president of NYCLA, “and if he saw something that bothered him, he didn’t just wring his hands. He explored the problem and proposed ways to make it better.” “His attitude was always, ‘This would be a great program. Let’s do it!’,” says Barbara Jones, a colleague on the SDNY bench who is now in private practice at Zuckerman Spaeder. “He wasn’t one for idle talk. He took action. He was sort of a one-man law improvement commission,” says Meade.

“He was truly dedicated to increasing diversity in the legal profession,” says District Court Judge George Daniels, another colleague on the SDNY bench. In 1989, Judge Baer and his wife, Dr. Suzanne H. Baer, then a director at the career center of New York Law School and a member of the ABA Commission on Minority Rights, established a program with NYCLA to provide paid summer judicial internships for minority law students. That program has expanded to five law schools in New York City and was rechristened the Hon. Harold Baer and Dr. Suzanne Baer Minority Judicial Internship Program in 2012. Stewart Aaron, the NYCLA president at the time of the renaming, and the current managing partner of the New York City office of Arnold & Porter, says the program is “the embodiment of Judge Baer and his wife: They started the program, worked tirelessly to get it funded, and personally met and interacted with each of the interns.”

Judge Baer had several notable cases as a Supreme Court judge, including one of the first gay rights cases. In a prescient ruling that went all the way to the New York Court of Appeals,<sup>9</sup> Baer held that the surviving member of a gay couple could assume the lease of his partner:

They were economically, socially and physically a couple like any traditional couple except their relationship could not be legally consummated. The mere non-existence of a legal piece of paper should not erase the time, love and commitment given by [the couple] to each other. They must be considered as a non-traditional family unit with all the protection that follows from such a finding.<sup>10</sup>

Judge Baer’s early recognition of nontraditional families ultimately became the law of the state. “After same-sex marriage became legal in New York, Judge Baer spent many a summer weekend officiating the marriages of his gay friends,” says former clerk Jonathan Schoepp-Wong, currently a law clerk for Third Circuit Judge D. Brooks Smith.

Judge Baer also presided over Lillian Hellman’s libel suit against Mary McCarthy for telling Dick Cavett that “every word [Hellman] writes is a lie, including ‘and’ and ‘the.’” Under New York law, the suit died with Hellman.

### The Mollen Commission on Police Corruption

Judge Baer resigned the state bench in 1992. He wrote an op-ed for the *New York Times* warning that huge caseloads and inadequate funding and facilities were damaging the judicial process.

That year, Mayor David Dinkins appointed Milton Mollen, former presiding justice of the Appellate Division, Second Department, to investigate corruption in the New York City Police Department—specifically, complaints that police were beating up drug dealers and stealing their money and drugs. Milton “is a force of nature,” said Judge Baer, “with a magical way of getting people to do what he what he wanted them to do... Milton was able to get the police department to actually cooperate.”<sup>11</sup>

This cooperation was the result of careful fieldwork. Mollen put together a politically balanced commission of two Democrats (Mollen and First Department Justice Herbert B. Evans), two Republicans (Roderick C. Lankler and former District Court Judge Harold “Ace” Tyler Jr.), and one member of the Liberal Party (Judge Baer, who had previously served as the executive director of the city’s Civilian Complaint Review Board) and coordinated his efforts with local prosecutor’s offices. “The chemistry was perfect,” says Mollen, who is yet another vigorous nonagenarian New York City lawyer.

After 22 months of investigation, the Mollen Commission issued a mixed report, finding cause for optimism in the “vast majority of honest officers” but also police corruption that was “far more criminal, violent, and premeditated than traditional notions of police corruption suggest and far more invidious than corruption of a generation ago.”<sup>12</sup> In response to the recommendations of the report, the mayor established the Commission to Combat Police Corruption in 1995, as a permanent, independent board to monitor and evaluate the anti-corruption efforts of the police department.

### U.S. District Court Judge

In November 1993, Sen. Daniel Patrick Moynihan nominated Judge Baer to the U.S. District Court for the Southern District of New York, along with Denise Cote (still a sitting SDNY judge) and Barrington Daniels Parker Jr. (now on the Second Circuit). The nomination was due to “the Liberal Party once again,” said Judge Baer. Herbert Rubin, then chairman of the Liberal Party’s law committee, had a seat on Moynihan’s committee that suggested nominees.<sup>13</sup> “I had been his lawyer in the 1982 election battles,” says Rubin, “and we developed a warm relationship. When he was interviewed, he impressed the committee, and he really impressed Senator Moynihan.”

After nomination, Judge Baer was required to submit everything he had ever written for consideration by the Senate committee. After traveling to Washington for interviews, he was prepped by a congressional staffer. She told him that the only memorable thing he had ever written was an article in *Brides* magazine about planning his daughter’s



## Judicial Profile Writers Wanted



The *Federal Lawyer* is looking to recruit current law clerks, former law clerks, and other attorneys who would be interested in writing a judicial profile of a federal judicial officer in their jurisdiction. A judicial profile is approximately 1,500–2,000 words and is usually accompanied by a formal portrait and, when possible, personal photographs of the judge. Judicial profiles do not follow a standard formula, but each profile usually addresses personal topics such as the judge's reasons for becoming a lawyer, his/her commitment to justice, how he/she has mentored lawyers and law clerks, etc. If you are interested in writing a judicial profile, we would like to hear from you. Please send an email to Sarah Perlman, managing editor, at [sperlman@fedbar.org](mailto:sperlman@fedbar.org).

wedding, titled "Marrying Off My Little Girl: How One Father Planned and Performed His Daughter's Wedding."<sup>14</sup> "That was worthwhile," she said.

He was confirmed. He took his oath in August 1994.

### The *Bayless* Controversy

Fresh from his involvement in the Mollen Commission, Judge Baer knew that many minority communities didn't trust the police. And he knew that some of this mistrust was warranted. In one of the early suppression cases that appeared before him, *United States v. Bayless*,<sup>15</sup> the only police witness presented uncorroborated and somewhat inconsistent testimony concerning the decision to seize a duffel bag of drugs that was abandoned by some men who fled at the sight of police. Judge Baer suppressed the drugs, holding that the very limited testimony in support of the seizure had been insufficient to establish probable cause and that flight was insufficient alone to establish probable cause, given Washington Heights' reputation for corrupt cops. Simply put, the government just hadn't met its burden of proof.

The decision created a media firestorm. Two hundred members of Congress called for Judge Baer's impeachment.

These congressional calls for impeachment were irresponsible. A federal judge is not subject to removal because a decision is unpopular. Impeachment is an extraordinary remedy available only for high crimes or misdemeanors, not a route for legislative review of judicial decisions. Chief Judge Jon Newman of the U.S. Court of Appeals for the Second Circuit and three of his predecessors, Judges Feinberg, Lumbard, and Oakes, called out Congress for its improper threats:

When a judge is threatened with a call for resignation or impeachment because of disagreement with a ruling, the entire process of ordinary resolution of legal disputes is undermined.... A rule in a contested case cannot remotely be considered a ground for impeachment.<sup>16</sup>

The firestorm abated when the prosecution moved for a rehearing. After a fuller evidentiary hearing with an extra police witness (and contradictory testimony from Ms. Bayless), Judge Baer decided to reverse himself. "He knew some critics would say that he lost his nerve," says Judge Mollen, "but he decided that the new evidence compelled a different result, and had the courage to do what he thought was right."

### Spokesperson for Judicial Independence

*Bayless* was ultimately a positive teaching moment, reminding the bar that it must stand up for judicial independence. Judges are easy targets with limited ability to defend themselves. Years later, Judge Baer's book *Judges Under Fire: Human Rights, Independent Judges, and the Rule of Law* (ABA 2011), threw a spotlight on threats to judicial independence throughout history and around the world. Such threats include aristocratic power (the forceful removal of tenants from the Scottish Highlands); executive greed (Colonial New York's Gov. Cosby); totalitarian rulers (Hitler's "People's Court" and others); incompetence and corruption (modern

China); political upheaval (Pakistan and Serbia); and media-fueled political attacks (Judge Baer's own experience). A frightened judiciary, writes Judge Baer, cannot render decisions that will command public respect. The erosion of public respect in judicial decisions, in turn, weakens all government. The Founders saw this threat, and the guarantee of judicial independence in Article III, § 1 is "probably our greatest constitutional principle." Judge Baer called upon a courageous and independent body of lawyers to protect judicial independence at home and to expand appreciation of this essential principle abroad.

Judge Baer was also a voice of support for fellow judges facing public criticism for a decision. "Almost every judge will face such criticism," says Judge Daniels. When it happened to him, Daniels was cheered by an unsolicited note of support:

In case I don't get you on the phone, you should know the brief comment that friends made during a period of some stress following a decision in a case of mine: "Tomorrow they will use that newspaper to wrap fish"— & sure enough in the fullness of time they did just that and will do it for you as well. See you soon. Harold.

### **Making the Law Fair and Kind**

With his like-minded wife, Judge Baer was dedicated throughout his career to making the law fair, blind to color and class, and, above all, kind.

"He was one of the most generous people I ever met," says former law clerk Kathleen Turland, now executive counsel at GE Capital. "He had great faith in humanity and gave it back in intangible gifts." "He was compassionate and ethically driven," agrees Rubin. He started the use of deferred prosecution while an assistant U.S. attorney. As a judge, he established programs to expand judicial experiences and opportunities for minority law students; to expand diversity on the bench; to reform sentencing; to increase diversity in the appointment of class counsel; and to rehabilitate felons and ease their re-entry into society.

The re-entry program, Supervision Opportunities to Advance Re-entry, is designed to reduce recidivism by giving probationers the opportunity to talk to their judge about what's going on in their lives. "Ideally the judge is supposed to have some influence on their going straight," says Judge Baer, who met with prisoners in the program biweekly. These meetings extended late in the evening, after a long day's judicial work. Judge Baer was working on a book about sentencing and recidivism when he died. "Judge Baer really cared about the people who passed through his courtroom," says Schoepp-Wong, "and many of the re-entrants viewed him as a father figure." "Judge Baer worked tirelessly to build programs to assist released prisoners in their re-entry to society," says SDNY Chief Judge Loretta Preska.

### **Personality**

Like many of our federal judges, Baer was multifaceted. He was adventurous. He loved to travel. (During a law school summer, he traveled as an ordinary seaman in the Merchant Marine.) He was a fine cook and a natty dresser, famous for

his jazzy socks. He took tremendous pride in the many accomplishments of his wife, two daughters, and grandchildren. He had an infectious laugh, a wonderful grin, and an enviable head of hair. He could be stubborn when a principle mattered to him. He had a passion for the equal treatment of all people.

He was generous with his time. "You could talk with him about anything," says Turland. "He was completely honest. He would give real feedback to us, and to the lawyers who appeared before him." And he gave the law clerks real responsibility. "He'd say to us, 'You're my lawyer, what do you think?'" recalls Turland.

When one of his law clerks gave him a teddy bear as a good-bye gift, other law clerks followed suit, and over the years he developed a massive collection. When a young boy undergoing medical treatment visited chambers, Judge Baer gave the boy an armful of bears. "It was such a delight to see the little boy's face light up," says Judge Baer's judicial assistant, Linda Eckhouse. In recent years, his law clerks have branched out to giving him a personalized bobblehead doll.

He worked hard. Former law clerk (and now congressman) Hakeem Jeffries says that law clerks call their time "the Harold Baer Experience." "No one left until Judge Baer left," says Rep. Jeffries. "As a result, we never went home." He had a very strong personality, but he was open to persuasion. "He kept an open mind, which is a critical quality for a judge," says Meade. "He let lawyers make their case, and he listened to conflicting views from his law secretaries. But once he reached a decision, he moved on to the next case. He didn't second-guess himself."

He ran a cheerful chambers. "This was the best job I ever had," says Eckhouse, who had 30 years' prior experience at law firms and whose margarita mix frequently accompanied Judge Baer on trips to Fire Island. "He treated his law clerks as part of his extended family," recalls Rep. Jeffries. "He encouraged us all to go into public service and taught us that justice should be delivered quickly and with compassion." "Judge Baer really believed in mentoring his law clerks and helping them build a support network," says Turland.

All the former law clerks rave about Judge Baer's reunions on Fire Island. "We could pack a year of memories into one day on Fire Island," says Turland.

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## Making a Difference

Judge Baer's funeral service was a stirring tribute. Bob Dylan's mournful song "Blowing in the Wind," Robert Frost's contemplative "Stopping by the Woods on a Snowy Evening," and Maya Angelou's sad but ultimately exultant "When Great Trees Fall" punctuated loving and humorous remembrances by members of Judge Baer's family, his rabbi, and Jeffries, as well as a moving eulogy by Seymour.

In that eulogy, Seymour defined success to include living well, laughing often, and loving much; never lacking appreciation of the Earth's beauty or failing to express it; looking for the best in others and giving the best yourself; and leaving the world better than you found it. This definition of success describes Judge Baer's remarkable life. He most definitely left the world better than he found it. Maya Angelou's poem was an aptly moving choice:

And when great souls die,  
after a period peace blooms,  
slowly and always  
irregularly. Spaces fill  
with a kind of  
soothing electric vibration.  
Our senses, restored, never  
to be the same, whisper to us.  
They existed. They existed.  
We can be. Be and be  
better. For they existed. ☉

## Endnotes

<sup>1</sup>The New York State Supreme Court is the highest trial-level court of the New York system, not a court of appeal. It is called "supreme" because it is a court of general jurisdiction and can hear all cases. Its judges are called justices.

<sup>2</sup>Dubinsky was a founder of New York's Liberal Party, along with Judge Baer's parents. He had a remarkable career as a national labor leader, culminating in the Presidential Medal of Freedom in 1969. He crusaded against corruption in the union and was instrumental in creating a code of ethics for the labor movement. He was unable to root out corruption at the local level and told one historian that any leader sent to reform the NYC local would be murdered. David Witwer, *The Most Racketeer-Ridden Union in America: The Problem of Corruption in the Teamsters Union During the 1930s*, in *CORRUPT HISTORIES* 215 & n.80 (Emmanuel Kreike & William Chester Gordon eds., 2006).

<sup>3</sup>*David Dubinsky, 90, Dies; Led Garment Union*, N.Y. TIMES, Sept. 18, 1982, available at [www.nytimes.com/1982/09/18/obituaries/david-dubinsky-90-dies-led-garment-union.html](http://www.nytimes.com/1982/09/18/obituaries/david-dubinsky-90-dies-led-garment-union.html).

<sup>4</sup>In close elections, given New York's fragmented political system, tiny parties may have outsized influence. Most candidates for office have multiple endorsements.

<sup>5</sup>Ronald Smothers, *Manhattan Liberals Win Supreme Court Race*, N.Y. TIMES, Nov. 4, 1982, available at [www.nytimes.com/1982/11/04/nyregion/manhattan-liberals-win-supreme-court-race.html](http://www.nytimes.com/1982/11/04/nyregion/manhattan-liberals-win-supreme-court-race.html).

<sup>6</sup>Jeffrey A. Kroessler, Interview with Harold Baer, Jr., John Jay College of Criminal Justice (Jan. 16 & June 3, 2009). Kroessler's expert interviews and John Jay's expansive oral history project (which includes interviews of judges, lawyers, politicians, and police officers) are excellent resources for those interested in New York's court system.

<sup>7</sup>Among Rubin's many other accomplishments, he was the victor in the landmark "minimum contacts" case, *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286 (1980). Rubin was profiled, along with other notable nonagenarian lawyers, in John Eligion, *Senior Counsel, Very Senior Counsel*, N.Y. TIMES, Feb. 19, 2010, available at [www.nytimes.com/2010/02/21/nyregion/21lawyers.html](http://www.nytimes.com/2010/02/21/nyregion/21lawyers.html).

<sup>8</sup>Meade and Baer had a close working relationship based on mutual respect and continued to collaborate on writing projects over the years. When Baer resigned the state bench, it left Meade without a job. With characteristic generosity, Baer took it upon himself to find new positions for Meade and other displaced assistants, and he personally paid for job counseling. Meade has had a distinguished career in the New York county clerk's office. Baer was amazed that Meade learned Italian to write the book, *The Red Brigades: The Story of Italian Terrorism* (Macmillan 1990). Meade's father was a colleague of Judge Baer's father on the New York County Supreme Court bench.

<sup>9</sup>The Court of Appeals is New York's highest court.

<sup>10</sup>*Braschi v. Stahl Associates Co.*, Index No. 002194/87, 1987 WL 343445 (NY Sup. Ct., Mar. 27, 1987), *rev'd*, 143 A.D.2d 44 (App. Div., 1<sup>st</sup> Dept. 1988), *aff'd*, 74 N.Y.2d 201 (NY 1989).

<sup>11</sup>Kroessler, *supra* note 6.

<sup>12</sup>COMMISSION TO INVESTIGATE ALLEGATIONS OF POLICE CORRUPTION AND THE ANTI-CORRUPTION PROCEDURES OF THE POLICE DEPARTMENT, COMMISSION REPORT, July 7, 1994, available at [www.parc.info/client\\_files/special%20Reports/4%20-%20Mollen%20Commission%20-%20NYPD.pdf](http://www.parc.info/client_files/special%20Reports/4%20-%20Mollen%20Commission%20-%20NYPD.pdf).

<sup>13</sup>Kroessler, *supra* note 6.

<sup>14</sup>Harold Baer, Jr., *Marrying Off My Little Girl: How One Father Planned and Performed His Daughter's Wedding*, BRIDES, Aug./Sept. 1989, at 630.

<sup>15</sup>*United States v. Bayless*, 913 F. Supp. 232 (SDNY 1996), *after reconsideration*, 921 F. Supp. 211 (SDNY 1996), *aff'd*, 201 F.3d 116 (2000), *cert. denied*, 529 U.S. 1061 (2000).

<sup>16</sup>Greg B. Smith, *Judges Rip Baer-Baiting*, N.Y. DAILY NEWS, Mar. 29, 1996, available at [www.nydailynews.com/archives/news/judges-rip-baer-baiting-article-1.730222](http://www.nydailynews.com/archives/news/judges-rip-baer-baiting-article-1.730222). Shortly afterward, in a speech at American University, Chief Justice Rehnquist said that judicial acts were not a proper basis for impeachment, and that judicial independence is "one of the crown jewels of our system of government." Rehnquist's comments were widely viewed as an oblique reference to the attacks on Judge Baer, of which he was surely aware. Linda Greenhouse, *Rehnquist Joins Fray on Rulings, Defending Judicial Independence*, N.Y. TIMES, Apr. 10, 1996, available at [www.nytimes.com/1996/04/10/us/rehnquist-joins-fray-on-rulings-defending-judicial-independence.html](http://www.nytimes.com/1996/04/10/us/rehnquist-joins-fray-on-rulings-defending-judicial-independence.html).