

2021 Annual Report of the State Reporter



February 3, 2022

I. Introduction

The New York State Law Reporting Bureau (LRB) was established under article 14 of the Judiciary Law to officially report New York court decisions. The LRB operates under the direction of a State Reporter appointed by the Court of Appeals, with a designated Judge of the Court—currently Judge Madeline Singas, who replaced Judge Leslie Stein who retired in June 2021—serving as the Court's liaison to the LRB. All decisions of the Court of Appeals and the Appellate Division and selected decisions of the lower courts are edited and published in print and online versions of the New York Official Reports, which include the New York Reports, the Appellate Division Reports and the Miscellaneous Reports. Motion decisions of the Appellate Division and Appellate Term and additional lower court opinions are published only online. This is a report of the LRB's activities in 2021.

II. Publishing Contract

The 2021-2025 Official Reports Publishing Contract was awarded to West Publishing Corporation pursuant to Judiciary Law § 434. Pursuant to the Publishing Contract, West prints and sells the Official Reports advance sheets and bound volumes and is the exclusive publisher of the online version of the Official Reports on its Thomson Reuters Westlaw service. The Publishing Contract provides a variety of benefits to the LRB and New York courts at no cost to the State, including Official Reports print subscriptions for all judges of courts of record; free online access to Official Reports content categories on Westlaw; computer equipment sufficient to outfit all LRB staff and support the LRB's editorial operations and data management/preservation; and various services essential to the LRB's automated editorial operations. A free, public access version of the Official Reports, Second and Third Series, without the LRB's copyrightable material, is available on the Law Reporting Bureau website in the New York Official Reports Service (powered by Westlaw) at <http://www.nycourts.gov/reporter/>. This service provides no-cost public access to the official text of these Court of Appeals, Appellate Division and Miscellaneous Official Reports decisions.

III. Publishing Activity

The COVID-19 pandemic continued to have an impact on operations, with LRB staff working remotely under an A and B reduced in-person staffing plan through May 24, 2021. Nonetheless, the LRB published in print and electronically 30,179 opinions, memoranda, abstracts and appellate motions in 2021. The 11% decline over 2020 figures (34,008) is largely attributable to a decrease in the number of appellate division motion decisions (down 8%) and appellate division memoranda (down 11%). In addition, fewer lower court decisions were submitted for publication (down 18%).

A. Print Publication

The LRB was able to substantially complete our print publication schedule for 2021, publishing only one less bound volume than planned. During 2021, the LRB prepared for publication two volumes of the New York Reports, 3d Series; 11 volumes of the Appellate Division Reports, 3d Series; and four volumes of the Miscellaneous Reports, 3d Series, for a total of 17 bound volumes. One soft-cover interim volume of the New York Reports, 3d Series, also was published (one less than planned).

In 2021, 52 weekly advance sheets were issued. These advance sheets contained 9,469 full opinions, memorandum decisions, and abstracts of opinions not published in print; 19,748 pages of opinions, memoranda and abstracts; and 13,457 headnotes, allocated as follows:

Report	# Opinions/ Memoranda	# Opinions/ Memoranda Pages	# Headnotes
NY3d	37 Opinions 38 Mems	947 Opinion 428 Mem	67 Opinion 43 Mem
AD3d	225 Opinions 7,423 Mems	1,946 Opinion 12,370 Mem	355 Opinion 11,033 Mem
Misc 3d	406 Opinions 1,340 Abstracts	3,867 Opinion 190 Abstract	619 Opinion 1,340 Abstract

Compared to the prior year, the number of: opinions, memoranda and abstracts decreased 11%; pages decreased less than 1%; and headnotes increased 2%.

B. Electronic Publication

All decisions published in print also are published electronically. In addition, the LRB publishes the following decisions only electronically:

- Appellate Term and trial court opinions not published in the printed Miscellaneous Reports. A total of 5,001 Appellate Term and trial court opinions were published only in electronic format in 2021, a decrease of 19% from the prior year.
- Motion decisions of the Appellate Division and Appellate Term. A total of 15,709 motion decisions were published electronically in 2021, a decrease of 8% from the prior year.

C. Arcanum

Using a new process for preparing the Court of Appeals Substantive Arcanum, jointly agreed to by the LRB and the COA in 2020, LRB staff completed their compilation of the 2020 Arcanum in June 2021 and forwarded it to the Court for publication. With the new streamlined procedures, and the dedication of staff working on the project, work Arcanum is now nearly contemporaneous.

IV. Selection of Lower Court Opinions

During 2021, a total of 5,416 Appellate Term and trial court opinions were submitted to the LRB for publication consideration, a decrease of 18% compared to 2020. One hundred and ten trial court opinions brought to the LRB's attention from third parties were solicited from the authoring judge for publication. Of the opinions submitted, the LRB accepted 367 for publication in the Miscellaneous Reports and 5,001 for online publication, for a total of 5,368 acceptances.

V. Website Usage

Usage of the LRB website remained strong in 2021. Over 1.2 million unique visitors accessed the site in 2021, with an average of 3.8 visits per visitor. Approximately 20% of visitors visited more than once, with almost 13,000 visits to the site each day.

Users downloaded a total of 2,199 copies of the LRB's Electronic Resources User Guide (a tutorial in the use of the Official Reports on Westlaw and the legal research and writing tools provided on the LRB website).

The LRB's Twitter account (@NYOfficialRpts) grew from 1,230 to 1,556 Followers.

VI. Style Manual

A total of 157 copies of the printed Official Reports Style Manual were distributed to judges, court staff and others in 2021. An additional 6,435 copies were downloaded from the LRB website.

A 2020 electronic update was developed and added to the 2017 Style Manual available on the LRB's website in 2021.

VII. Product Development

The LRB works collaboratively with Thomson Reuters Westlaw on all aspects of the publication of the Official Reports. Notable efforts in 2021 include:

- At West's request, the LRB tech team and West transitioned the LRB's automated file send process from West's FTP server to West's sFTP server. This project involved significant work by LRB programmers to update the LRB's internal processing applications.
- LRB managers and editors worked with West to identify methods of incorporating New York Official Report content into Westlaw Edge training sessions for New York court system users. West also launched a recurring 30-minute training session focused on the New York Official Reports Materials.
- Pursuant to the Publishing Contract, West has been working to expand the coverage in the New York Official Reports Service to include the entire First Series of Official Reports, which will complete the LRB's acquisition of these electronic materials. At year-end, West had built back to approximately 1930.

VIII. Personnel

LRB staff numbered 27 at the close of 2021, down from a regular staffing level of 30.

- Senior Law Reporting Assistant Cindy DeViddio retired in June 2021.
- Senior Law Reporting Assistant Kimberly Concilla retired in June 2021.
- The retirement of a Principal Legal Editor in 2020 remained unfilled at the close of 2021.

IX. Facilities

In June, Evacuation and Emergency Procedures were recirculated to staff as part of an annual reminder protocol. Additionally, floor warden responsibilities were reissued to the designated floor wardens.

X. Editorial and Office Technology

The COVID-19 pandemic continued to place increased demands on the LRB's technology team as it worked to support all aspects of our publishing and editorial operations with hybrid in-person/remote LRB staffing. The team provides substantial support to editorial staff in day-to-day publishing operations which are performed in a WordPerfect (macro) environment. At the same time, the team responded to new initiatives from OCA's Department of Technology (DOT), upgraded existing programs, and continued to develop programs and adapt internal processes to accommodate current and prospective conversion of court documents to Microsoft Word format.

Highlights of the LRB's 2021 technology efforts include:

- The technology team (LAN and programmers) continued to support LRB employees working remotely due to the COVID-19 pandemic.
- The team collaborated on research into authentication of PDFs posted to the LRB website, including initial discussions with DOT, which oversees certification of certain documents for trial courts. Programmers began work on an Official Reports authentication process.
- Programmers continued to refine and make updates to the new motions initial processing application which was developed in 2020 and rolled out to users in 2021.
- Programmers developed a new application for Advance Sheet corrections and rolled it out as part of a new LRB Common Tools console which centralizes access to newly developed apps and permits easy update to individual workstations.
- Programmers worked with DOT to facilitate two upgrades to the LRB website Advance Search tool.
- The LAN team upgraded all LRB users to Windows 10 version 1909 and Adobe 2017, including initial macro testing, staff testing, and development of a training and tips guide. They also upgraded all LRB staff to Foxit PhantomPDF 10.1.4.
- The team migrated all LRB users to Microsoft Edge (from Internet Explorer 11), including identifying all impacted macros and other items requiring technical attention, testing the newly created HTML corrections and PDF editing applications, and developing an Edge training guide.
- The LAN team migrated all LRB users' personal storage drives to the cloud-based UCS OneDrive, including developing a tips guide.
- The LAN team migrated the LRB's on-premises file server to the DOT data center.
- The LAN team transitioned LRB staff to Pulse Secure Client for their VPN logins.
- The LAN team coordinated with DOT on a battery replacement schedule for the LRB; an upgrade to all UPS (uninterruptible power supply) units; and the installation of new ATS (automatic transfer switch) units throughout Centennial Hall.
- The LAN team implemented DOT's new PC firewall group policy for all LRB PCs.
- Programmers continued development work for the LRB's conversion of its trial court processing application to Word.

XI. Continuing Legal Education (CLE)

Members of the LRB's staff attended the following CLE programs generously offered to LRB employees by various courts and legal entities:

- Estate Administration & Surrogate’s Court 2021; Strategies for Maintaining Lawyer Well-Being During Challenging Times; The Intersection of State and Federal Law Regarding Sentencing; 2021 Warren M. Anderson Series on the Future of the Courts in a Post-COVID Era; Article 78 and the Duty to be Reasonable; The Art of Appellate Practice and Decision Making: A Judicial Perspective; Watchdogs or Lap Dogs? The Ethical Challenges Facing Government Lawyers; Criminal Law and Procedure Update 2021; and The Child Parent Security Act: Assisted Reproduction, Surrogacy and Parentage in New York.

XII. Professional and Volunteer Activities

LRB staff members participated in various professional activities, community events and charitable causes.

A. Professional Activities

- *Guide to New York Evidence*: The twelfth, thirteenth and fourteenth installments of the Guide, totaling 21 evidence rules and accompanying notes, were edited, formatted and returned to the Chief Judge’s Advisory Committee on Evidence. Completed portions of the Guide are published online at <http://nycourts.gov/judges/evidence/index.shtml>.
- On March 1, Cara J. Brousseau gave a virtual presentation to the Advanced Legal Research class at Seton Hall University Law School (Professor Charles Cole) on official reporting of judicial decisions and implications for legal research.
- On May 3, Cara J. Brousseau gave a virtual presentation to the law librarians at Brooklyn Law School on Official Reporting of New York Judicial Decisions.
- On August 3, Cara J. Brousseau attended the Association of Reporters of Judicial Decisions’ annual meeting which was held virtually. The 2021 annual meeting, originally scheduled to take place in San Francisco, was moved to 2022.
- An updated resource entitled “The Law Reporting Bureau: Publication in the Official Reports and LRB Resources” was provided to the Judicial Institute for its 2022 New Judges Seminar.

B. Volunteer Activities

- The LRB continued its holiday tradition of “adopting” families through the Ronald McDonald House. Gift cards purchased through staff contributions were donated to the Ronald McDonald “Family Room” in the neonatal intensive care unit at Albany Medical Center.

XIII. Visits and Visitors

In December, the LRB and West held a virtual meeting to wrap-up the 2021 Publishing Contract year and discuss projects for 2022.

XIV. Organization

Founders Day, April 7, marked the 217th anniversary of the enactment of legislation creating the system of official law reporting in New York.