

New York Law Journal

New Trial Bar Leader Fights Back as He Sees Patients, Consumers Facing Greater Odds

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(From left to right: Honorable Jenny Rivera, President David M. Oddo and Halina Radchenko.)

"David Oddo, a name partner at Okun, Oddo & Babat, is taking the reins of the New York State Trial Lawyers Association just as the cards in his view have "become increasingly stacked" against patients and consumers.

Oddo was sworn in in June as the 51st president of the NYSTLA, succeeding Matt Funk of Pasternack Tilker Ziegler Walsh Stanton & Romano.

A 1989 graduate of the Touro College Jacob D. Fuchsberg Law Center, Oddo worked as a prosecutor in Nassau County before entering private practice.

He discussed NYSTLA's legislative priorities, including fighting to prevent changes to the state's Scaffold Law and pushing for a change in the law that would allow damages for pain and suffering in wrongful death suits, as well as protecting the rights of workers at a time when Washington seems intent on rolling back labor rights."

Given your background in personal injury law, are there reforms or changes at the state level related to this practice area that NYSTLA should address?

"Throughout my career in private practice, I've represented victims' families in wrongful death cases that have left them devastated both financially and emotionally. These cases have included auto incidents, medical malpractice and safety hazards that have unexpectedly led to tragedy. In many instances, the civil justice system provides the sole means of accountability and financial support for those grieving the loss of their loved ones.

But unfortunately, New York state law comes up short in providing justice and relief to victims and their families. Currently, damages are determined strictly based on the victim's prior and expected earnings, without addressing the pain and suffering inflicted upon their family. When loved ones must mourn the loss of their child, elderly relatives or stay-at-home parents as the result of someone else's negligence, they do not receive the justice they deserve. For that reason, NYSTLA will continue to prioritize the rights of these victims and support legislation that enables wrongful death lawsuits to include damages for pain and suffering.

Additionally, NYSTLA will continue to advocate for raising the minimum requirements for automobile insurance to make sure victims of auto accidents are adequately compensated and supported. Today's minimums are far too low and have not been adjusted since 1995, leading to an inability of a victim to access appropriate damages. Across the board on all personal injury cases, it is imperative that we continue our efforts to expand transparency on the relationship between insurers and liable parties."

What do you see as the biggest challenges on the horizon for the trial lawyers' bar?

"From a professional standpoint, the biggest challenges are remaining nimble and being able to quickly adapt in a changing professional landscape. Regulatory and legislative changes, coupled with decisive rulings, can quickly reshape specific practice areas overnight.

At the same time, changes in technology and norms around personal communication are reshaping how lawyers grow and manage their practices. Lifelong learning and training are key to any attorney's long-term success, which is why NYSTLA is proud to be consistently ranked by the Law Journal's readers as the state's best CLE provider."

How about the plaintiff's bar specifically?

"The current presidential administration has fought to roll back important protections for hardworking men and women at every turn, from its immigration policies to labor rights issues. In some instances, the courts have been effective in helping to mitigate or deny unconstitutional actions taken by this administration.

But we know how to fight back. Last year, NYSTLA played a critical role driving successful campaigns to enact five bills into law that strengthened the legal rights of New York's families and workers, a record among[] all state trial lawyers' associations nationwide. Supporting the tireless efforts of advocates and victims, we helped to restore the legal rights of cancer patients affected by medical malpractice with Lavern's Law and expanded access to much-needed insurance for drivers involved in an accident with uninsured or underinsured drivers. NYSTLA also played a critical role to establish the strongest regulatory framework for ride-sharing nationwide to protect consumers, created a mechanism to provide greater fairness in establishing venues in civil trials, and enabled plaintiffs to admit out-of-state hospital records into evidence at trial.

Looking ahead, the challenge for the plaintiff's bar is sustaining the fight on behalf of consumers, patients and workers so that they can get a fair shot at justice, even as the cards become increasingly stacked against them in favor of influential special interests. We can't allow ourselves to become discouraged, no matter the obstacles placed before us. As Justice [Thurgood] Marshall, a NYSTLA member himself, once said, "This is your democracy—make it, protect it, and pass it on." Our response to the growing turmoil coming out of D.C. must be to work even harder and smarter than we already do, and to continue pushing our state legislators to stand up for New Yorkers by protecting and expanding legal protections under threat by the federal government and special interests here in New York."

Considering recent U.S. Supreme Court decisions limiting the rights of class action plaintiffs, are there protections that NYSTLA could push for on the local or state levels to aid plaintiffs?

"Yes, and implementing those protections will be crucial to reinforcing New Yorkers' legal rights. As individuals, plaintiffs typically lack the resources needed to hold corporations and special interests accountable and the court's recent decision only makes it more challenging.

However, there are measures here in New York that can help restore some protections. For example, a bill introduced in the New York City Council would require employers to inform job-seekers of mandatory arbitration policies in classified listings. At the state level, NYSTLA supports comprehensive legislation to protect consumers by adding much-needed transparency to the arbitration process to promote fairness, which will help mitigate federal decisions that hurt ordinary Americans."

There have been repeated calls through the years for lawmakers in Albany to revisit the state's Scaffold Law and, in some cases, subject it to substantial

changes. NYSTLA has long resisted changes to the law. Will you maintain this position? If so, would the organization ever be open to any changes to the law?

"NYSTLA will continue to support the Scaffold Safety Law, one of the most crucial safeguards for workers across the state. Worker fatalities at construction sites are on the rise, in no small part because more and more sites are either uninspected or are avoiding punishment for safety violations. The Scaffold Safety Law allows workers and their families to hold contractors accountable when they don't provide the proper safety equipment or protections. Weakening the law will only encourage contractors to cut corners and will further exacerbate the risks of an already dangerous profession. It is important that the public and the Legislature understand the Scaffold Safety Law and its practical implications. To that end, it is imperative that any informed discussion include legislation requiring transparency of insurance records, to allow for a fact-based and straightforward discussion of how to best protect our workers."