

2020 Annual Report of the State Reporter



January 11, 2021

(revised Jan. 12, 2021)

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 Leslie E. Stein—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 2020.

II. Publishing Contract

The 2021-2025 Official Reports Publishing Contract was awarded to West Publishing Corporation pursuant to Judiciary Law § 434. West will print and sell the Official Reports advance sheets and bound volumes and be the exclusive publisher of the online version of the Official Reports on its Thomson Reuters Westlaw service. The contract provides a variety of benefits to the LRB and the courts at no cost to the state, including Official Reports print subscriptions for all judges of courts of record; online access to Official Reports databases on Westlaw; computer equipment sufficient to outfit all LRB staff and support the LRB's editorial operations and data management and preservation; and various services essential to the LRB's automated editorial operations. The contract also requires that West Publishing Corporation expand the coverage of archival Official Reports decisions available on the LRB's website to include the entire First Series of Official Reports, completing our acquisition of these electronic materials. This enhancement will provide no-cost public access to the full official text of all Court of Appeals, Appellate Division and Miscellaneous decisions. Coverage currently extends back to 1956.

III. Publishing Activity

The COVID-19 pandemic had an impact on all courts throughout the state, and this impact is reflected in the LRB's 2020 publishing activity. The LRB published in print and electronically 34,008 opinions, memoranda, abstracts and appellate motions in 2020. The 24% decline over 2019 figures (44,735) is largely attributable to a decrease in the number of appellate division motion decisions (down 34%) and appellate division memoranda (down 9%). In addition, fewer lower court decisions were submitted for publication (down 4%), and the LRB intentionally selected fewer lower court decisions for print publication when LRB offices were closed in the spring due to the pandemic. The Official Reports are published in print and online pursuant to the statutorily required five-year Official Reports Publishing Contract, currently held by West Publishing Corporation;

West Publishing Corporation is the sole online commercial source of the complete New York Official Reports through December 31, 2025. A free, public access version of the Official Reports, without the LRB’s copyrightable material, is available on the Law Reporting Bureau website in the Official Reports Service at <http://www.nycourts.gov/reporter/>.

A. Print Publication

While the COVID-19 pandemic impacted court operations, the LRB was able to substantially complete our print publication schedule, publishing only one less bound volume than planned. During 2020, the LRB prepared for publication one volume of the New York Reports, 3d Series (one less than planned); 11 volumes of the Appellate Division Reports, 3d Series; and four volumes of the Miscellaneous Reports, 3d Series, for a total of 16 bound volumes. Two soft-cover interim volumes of the New York Reports, 3d Series, also were published.

The LRB did not miss a single advance sheet in 2020, even during the spring closure of the LRB’s offices. In 2020, 53 weekly advance sheets and six bi-monthly Cumulative Tables and Index pamphlets were issued. These advance sheets contained 10,638 full opinions, memorandum decisions, and abstracts of opinions not published in print; 19,789 pages of opinions, memoranda and abstracts; and 13,160 headnotes, allocated as follows:

Report	# Opinions/ Memoranda	# Opinions/ Memoranda Pages	# Headnotes
NY3d	49 Opinions 40 Mem	1,108 Opinion 434 Mem	93 Opinion 47 Mem
AD3d	250 Opinions 8,317 Mem	1,912 Opinion 12,862 Mem	365 Opinion 10,507 Mem
Misc 3d	343 Opinions 1,639 Abstracts	3,262 Opinion 211 Abstract	509 Opinion 1,639 Abstract

Compared to the prior year, the number of: opinions, memoranda and abstracts decreased 12%; pages decreased 7%; and headnotes decreased 9%.

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 6,206 Appellate Term and trial court opinions were published only in electronic format in 2020, a decrease of 3% from the prior year.
- Motion decisions of the Appellate Division and Appellate Term. A total of 17,164 motion decisions were published electronically in 2020, a decrease of 34% from the prior year.

C. Arcanum

The LRB implemented a new process for preparing the Court of Appeals Substantive Arcanum, jointly agreed to by the LRB and the COA. In November, LRB staff completed their compilation of the 2019 Arcanum and forwarded it to the Court for publication. With the new, streamlined procedures, and the dedication of staff working on the project, work on the 2020 Arcanum is nearly contemporaneous.

IV. Selection of Lower Court Opinions

During 2020, a total of 6,640 Appellate Term and trial court opinions were submitted for publication consideration, a decrease of 4% compared to 2019. Seventy-six opinions brought to the LRB's attention were solicited from the authoring judge for publication.

Of the opinions submitted, the LRB accepted 364 for publication in the Miscellaneous Reports and 6,206 for online publication, for a total of 6,570 acceptances, a decrease of approximately 4% compared to 2019.

V. Website Usage

Usage of the LRB website remained strong in 2020. A total of 1,006,016 unique visitors accessed the site in 2020, with an average of 4.26 visits per visitor. Approximately 20% of visitors visited more than once, and an average of 11,695 visitors visited the site each day.

Users downloaded a total of 1,551 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 889 to 1,230 Followers.

VI. Style Manual

A total of 55 copies of the printed Official Reports Style Manual were distributed to judges, court staff and others in 2020. An additional 7,019 copies were downloaded from the LRB website.

VII. Product Development

The LRB worked closely with West Publishing Corporation for more than a year to create and then implement a New York Official Reports logo on Westlaw, which is designed to distinguish the Official Reports version of New York State decisions from the version contained in the National Reporter System. The logo now appears at the top right corner of all Official Reports decisions on Westlaw Classic, Westlaw Edge and the free public access Official Reports Service (Powered by Westlaw) on the LRB website.



VIII. Personnel

LRB staff numbered 29 at the close of 2020.

- Matt Fahrenkopf joined the LRB as a Legal Editor.
- Principal Legal Editor Maureen Clements retired after 28 years of service.

IX. Facilities

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 LRB's technology 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 continued to develop programs and adapt internal processes to accommodate current and prospective conversion of court documents to Microsoft Word format, and the LRB's migration to a full Microsoft environment.

The COVID-19 pandemic placed additional demands on the LRB's technology team. During the shutdown of the LRB's offices in the spring, the LRB implemented procedures to continue to allow for daily processing of all appellate and trial court decisions submitted to the LRB for publication. In addition, new, paperless procedures were developed and implemented, across product, to accommodate remote work. The LRB continued to publish decisions on our free public-access website and transmit them to the publisher for posting on Westlaw edit documents for publication, and publish weekly advance sheets during the shutdown, in large part due to the dedication of the technology team and LRB product managers.

Other highlights of 2020 include:

- The technology team provided all LRB employees with VPN access for remote work during the shutdown, supporting staff on the new challenges remote work presents.
- Working with OCA building maintenance staff, the technology team planned and executed office and related equipment moves to allow employees to return to in-person work in compliance with social distancing requirements necessitated by the COVID-19 pandemic.
- Network administrators developed a "Wake on LAN" program which allows PCs to automatically power on every morning at 7:30 a.m., and allows LAN personnel to "wake up" targeted PCs remotely as needed.
- Programmers completed their implementation of a new processing application for Appellate Division, Third Department decisions submitted in Word.
- Programmers rolled out the new processing application for Appellate Division, First Department decisions submitted in Word.
- Programmers developed and rolled out a new PDF conversion and posting process for Appellate Division motion decisions. The application permits editorial staff to run, verify, and post decisions on the LRB website, transmit the decisions to the publisher, and make corrections. The process will be further developed in 2021 to allow for authentication of PDF documents on the LRB website.
- In collaboration with OCA, the New York Official Reports Citator was migrated to a new OCA server, with OCA's implementation of a security solution and related testing by the LRB.
- The LRB updated its technology policies, tailored in accordance with the UCS Internet Security Protocols memorandum dated February 4, 2020.

- Network administrators backed-up the LRB’s SQL server to the OCA datacenter. Additionally, all LRB servers were migrated from Symantec Endpoint Protection (Antivirus) software to Microsoft System Center Endpoint Protection in compliance with the Department of Technology’s changeover.
- Network administrators rolled out new PCs for all LRB users with Windows 10/WordPerfect X7 upgrades. They also rolled out Microsoft Teams, Windows 10 Enterprise and Foxit Phantom 10.1, and provided training on Microsoft Excel, VPN Access and Microsoft Teams.
- Network administrators worked with DOT staff to acquire and install two new WAPs (wireless access points) which support both public WiFi and Courtnet access throughout Centennial Hall. They also worked with DOT to upgrade Centennial Hall’s networking switches to support the new WAPs.
- The technology team began preparation for the LRB’s January 2021 migration to Microsoft Edge, including the identification of all impacted macros and other items requiring technical modification. New HTML corrections and PDF editing applications were developed for use with Edge. In addition, work continued on upgrading Adobe Acrobat and Windows 10.

XI. Continuing Legal Education (CLE)

LRB attorneys presented and attended various CLE programs in 2020.

- Cara J. Brousseau, Kelli Flansburg and Kayleigh Gekakis recorded a CLE on demand video program about LRB operations for the Court of Appeals entitled “New York’s Official Common Law: Editing, Publication and Legal Research and Writing Resources.”
- Members of the LRB's staff attended the following CLE programs generously offered to LRB employees by the Appellate Division, Third Department and the Court of Appeals: The Role of Bar Associations in the Legal Community and the Community at Large”; “Immigration Law Update”; “Recent Developments in Criminal Law”; “The First Amendment and Other Constitutional Issues”; “The 100th Anniversary of Women’s Suffrage and the Fight and Achievement of Women’s Voting and Legal Rights”; and “Ethical Dilemmas Faced by Attorneys and Ethics Update.”

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 tenth and eleventh installments of the Guide, totaling 33 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>.
- State Reporter Cara J. Brousseau attended the Association of Reporters of Judicial Decisions’ annual meeting which was held virtually. The 2020 meeting, originally scheduled to take place in San Francisco, was moved to 2021.
- Cara J. Brousseau presented an overview of the Law Reporting Bureau at a virtual meeting of the Judicial Section of the New York County Lawyers Association.
- Cara J. Brousseau recorded a presentation for the Judicial Institute entitled “The New York State Law Reporting Bureau’s Research and Writing Resources.” The presentation was designed for interns currently working in the court system.
- Cara J. Brousseau recorded a presentation entitled “The Law Reporting Bureau: Publication in the Official Reports and LRB Resources” for the Judicial Institute’s 2021 Virtual New Judges Seminar. The LRB also provided the Judicial Institute with an instructional guide on submission and publication of opinions and use of online Official Reports material and other research and writing resources on the LRB website.

B. Volunteer Activities

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

XIII. Visits and Visitors

- In February, representatives from West Publishing visited the LRB to discuss implementation of the 2016-2020 Official Reports Publishing Contract and the status of other joint projects.
- In December, the LRB and West held a virtual meeting to wrap-up the 2016-2020 contract and begin implementation of the 2021-2025 contract.

XIV. Organization

Founders Day, April 7, marked the 216th anniversary of the enactment of legislation creating the system of official law reporting in New York.