

Summer Arts/Entertainment

Book Review: *Know My Name, A Memoir*

*I'm a civilian who's been randomly selected to receive an all-access pass to the court system.*¹

Known in the media as the "Stanford Victim," as the "drunk victim," and as "Emily Doe," Chanel Miller in 2015 was sexually assaulted while unconscious. The assault took place behind a dumpster near Stanford University. The assailant was Brock Turner, a student she met at a fraternity party that evening. Stanford graduate students Carl-Fredrik Arndt and Peter Jonsson, known in the media as the "Swedes on bicycles," simultaneously saved Miller from further assault and held Turner for the police.²

Turner, known in the media as the "All-American Stanford swimmer," was convicted of three felony counts of sexually assaulting Miller. He served ninety days of a six-month sentence from Judge Aaron Persky, in response to a probation recommendation for a "moderate county jail sentence, formal probation and sexual offender treatment." The prosecutor had fought for a six-year sentence.³

When the Turner appeal was heard by the Sixth District Court of Appeal on July 25, 2018, his attorney argued that "Brock only intended to have intercourse." Miller notes that Justice Franklin D. Elia responded, "I absolutely don't understand what you are talking about."⁴ Not until August 8, 2018—three years and eight months after her assault—did Miller receive a two-word text from the prosecutor: "Judgment affirmed!"⁵

Forever known as the first judge to be recalled in California since 1932, Persky's lenient sentence and specific remarks about Miller and Turner resulted in the loss of his right to serve as a judge.⁶ Miller wrote:

*The judge was not God. He was one man, wearing a black smock, head of a small domain, ruler of a one-room kingdom on Grant Avenue. He was not the sole truth speaker, the rule maker, the final word. He was an elected official, voted out by 62 percent.*⁷

Miller's painstakingly beautiful prose

includes powerful descriptions of her relationships with those she had known her own life, as well as with those she had never met. Hundreds of strangers poured their hearts out to her in letters and cards sent to the prosecutor's office. And Miller contrasts the signature-by-signature collection of recall petitions (totaling 95,000 by January of 2018) with reams of hate letters and threats against her, so frightening that the police had to be stationed outside her home and the prosecutor had to have meetings to strategize on how to protect her.

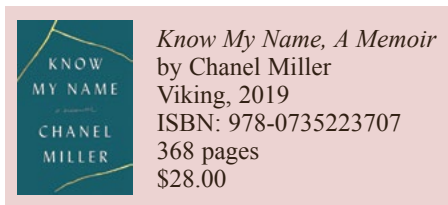
In New York State, the Commission on Judicial Conduct oversees judicial misconduct. Judges may be admonished, censured, retired, or removed from office by the Commission on Judicial Conduct.⁸ But the commission's disciplinary actions are subject to review. Judges of the Court of Appeals and justices of the Supreme Court, which includes the Appellate Division, may be removed by a two-thirds vote of both houses of the Legislature. Other judges may be removed by a two-thirds vote of the Senate on the recommendation of the Governor. Judges may be impeached by a majority vote of the assembly and removed by a two-thirds vote of the court for the trial of impeachments. That court consists of the President of the Senate, the Senators, and the Judges of the Court of Appeals.⁹

In California, however, judges are removed through the recall process, which begins with petitions signed by registered voters to place that decision on the ballot. Stanford University Professor Michele Dauber led the fight for the recall, obtaining the requisite signatures to place the recall on the ballot.¹⁰

Miller's Victim Impact Statement¹¹ and



Martha Krisel



Know My Name, A Memoir
by Chanel Miller
Viking, 2019
ISBN: 978-0735223707
368 pages
\$28.00

her memoir highlight college and university avoidance of thorough investigations out of fear of damage to their reputations, a phenomenon described by Stanford alumna Jennifer J. Freyd as "institutional betrayal."¹² Noting that "the crime of sexual assault depended on our silence,"¹³ the memoir is a roadmap for sexual assault victims unable to or afraid to prosecute their assailants because of shame, because of the lack of resources to miss work and school, and because of a system that opens up their own lives to incredible scrutiny, regardless of the fact that sexual assault is a crime.

Throughout, Miller acknowledges that she is uniquely situated because of the unwavering support of her immediate family, her boyfriend, the hospital personnel where she woke up to discover that she had been assaulted, and her many friends and strangers who never leave her through her four year nightmare.

I began this story alone as a half-naked body. I remembered nothing. There was so much I did not know. I was forced to fight, in a legal system I did not understand, the bald judge in the black robe, the defense attorney with narrow glasses. Brock with his lowered chin, his unsmiling father, the appellate attorney. The obstacles became harder, I was up against men more educated, more powerful than me, the game rougher, more graphic, serious. I read comments that laughed at my pain. I remember feeling helpless, terrified, humiliated. I cried like I've never cried before. But I remember the attorney's still shoulder as guilty was read. I know Brock slept

ninety days in a stiff cot in a jail cell. The judge will never step foot in a court room again. The appellate attorney's claims were shut down.¹⁴ One by one, they became powerless, fell away and when the dust settled, I looked around to see who was left. Only Emily Doe.¹⁵

Since Miller's assault, Title IX guidance has issued.¹⁶ California sexual assault laws have been amended.¹⁷ The dumpster is gone. A contemplative garden, created at the insistence of Stanford students, sits in its place.¹⁸

Martha Krisel is the Executive Director of the Nassau County Civil Service Commission. A Past President of the NCBA, Krisel currently chairs the NCBA COVID-19 Task Force.

1. Chanel Miller, *Know My Name* 315 (2019).
2. Lindsey Bever, *The Swedish Stanford students who rescued an unconscious sexual assault victim speak out*, *The Washington Post* (June 8, 2016), available at <https://wapo.st/37cuKpB>.
3. Miller, *supra* n.1, at 214.
4. Miller, *supra* n.1, at 322.
5. Miller, *supra* n.1, at 322.
6. Maggie Astor, *California Voters Remove Judge Aaron Persky, Who Gave a 6-Month Sentence for Sexual Assault*, *The New York Times* (June 6, 2018), available at <https://nyti.ms/2MSK4yF>.
7. Miller, *supra* n.1, at 321.
8. www.scjc.state.ny.us.
9. SCJC Determinations Database, available at <https://on.ny.gov/30mgjX>. If the Commission determines that public disciplinary action is warranted, it may render a determination to impose one of four sanctions. The Commission may admonish a judge publicly; censure a judge publicly; remove a judge from office; or retire a judge for disability.
10. Miller, *supra* n.1, at 253-54.
11. Katie J.M. Baker, *Here's The Powerful Letter The Stanford Victim Read To Her Attacker*, *BuzzFeed News* ((June 3, 2016), available at <https://bit.ly/3f32UyP>; Miller, *supra* n.1, at 333
12. Miller, *supra* n.1, at 297.
13. Miller, *supra* n.1, at 327.
14. Miller, *supra* n.1, at 322.
15. Miller, *supra* n.1, at 328.
16. 85 FRN 30026, effective 8/14/20, available at <https://bit.ly/2ze2SoA>.
17. See Cal. Penal Code § 289(e).
18. Office of the Provost, Stanford University, *Update on the contemplative garden* (Nov. 12, 2019), available at <https://stanford.io/2YfTY2w>.

IN BRIEF

Forchelli Deegan Terrana LLP is pleased to announce that Gregory S. Lisi, a Partner and Chair of the firm's employment & labor practice group, was installed as President-Elect of the Nassau County Bar Association (NCBA) on Tuesday, June 2, 2020. He will serve a one-year term and then become President of the NCBA in June 2021.

Quatela Chimeri, with offices in Hauppauge and Garden City, welcomes Howard B. Leff as senior counsel concentrating in the matrimonial and family law practice group. Mr. Leff brings more than 40 years of extensive state and federal court litigation, trial and appellate experience to the firm.

Farrell Fritz is pleased to announce that Brian P. Corrigan, a partner in the firm's estate litigation practice group, has been elected to the American College of Trust and Estate Counsel (ACTEC) as a Fellow. ACTEC is a national organization of more than 2,500 lawyers and law professors maintaining an active practice in probate and trust law or estate planning in addition to an outstanding reputation, exceptional skill, and substantial contributions to the field by lecturing, writing, teaching and participating in bar activities.

Ronald Fatoullah of Ronald Fatoullah & Associates presented several educational virtual webinars for the public: "Aging in Place During These Challenging Times," "The NY Statewide Senior Action Council: Now More Important Than Ever!"; "Difficult Conversations With Family Members" a panel presentation with other professionals offering tools to ease the strain of difficult family conversations and suggestions where to find resources; "Confusing, Complicated and Frustrating-How Advocacy is Critical for Legal, Medical, and Insurance Issues" and "Be Prepared: Living Trusts and The New NY Medicaid Home Care



Marian C. Rice

Rules." Mr. Fatoullah was also a featured speaker for the National Business Institute and presented "Strategic Use and Benefits of Medicaid Trusts".

Barrie E. Bazarsky, has joined the Smithtown office of Futterman, Lanza & Pasculli, LLP as a personal injury senior associate bringing decades of experience as a personal injury attorney including as managing attorney for the Jacoby & Meyers LI personal injury unit.

NCBA Past President Marian C. Rice of L'Abbate Balkan Colavita & Contini, LLP has been appointed as a member of the NYSBA Committee on

Professional Ethics and Chair of the Working Group on Public Trust and Ethics within the newly created NYSBA Task Force on Attorney Wellness.

The In Brief column is compiled by Marian C. Rice, a partner at the Garden City law firm L'Abbate Balkan Colavita & Contini, LLP, where she chairs the Attorney Professional Liability Practice Group. In addition to representing attorneys for 35 years, Ms. Rice is a Past President of NCBA.

Please email your submissions to nassaulawyer@nassaubar.org with subject line: IN BRIEF

The Nassau Lawyer welcomes submissions to the IN BRIEF column announcing news, events, and recent accomplishments of its current members. Due to space limitations, submissions may be edited for length and content.

PLEASE NOTE: All submissions to the IN BRIEF column must be made as WORD DOCUMENTS.

COVID Help ...

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"I never imagined that the world we are living in, or my first year of law school, would be changed forever from an invisible threat. This scary and unfortunate situation created an opportunity for law students to have an instant impact to assist families, businesses, and the community affected by the global pandemic. In a short period of time, I have built a great relationship and I have learned immensely from Mr. Glenn Wurzel, of the Wurzel Law Group, PLLC. Each inquiry has provided newfound knowledge and compassion that cannot be taught in a classroom setting. Although social distancing has prevented discussions in person, Mr. Wurzel has been committed to helping me understand and be a part of assisting each individual." said St. John's Law student William Bird.

The NCBA would like to thank the members who have so graciously donated their time to make this program a success, and to the law students who were eager to help and learn this summer.

"Being an intern with the NCBA Covid-19 Law Student Pro Bono Program is a very meaningful experience. Covid-19 has certainly affected everyone, and it is rewarding to be able to do something to help those who need assistance. One of our inquirers was someone who was previously in a mixed-status marriage and was therefore not issued a stimulus check. We helped put her in touch with a law firm that could further assist her. After every inquiry, my mentor explains the legal issues and lessons.

The internship has given me hands-on legal experience and an opportunity to give back to the community," said St. John's Law student Abigail Ziegler.

If you are interested in volunteering on the Task Force, please contact NCBA Communications Manager Ann Burkowsky at aburkowsky@nassaubar.org or (516) 747-4071 and indicate your area of practice. The COVID Community Task Force may be reached by email at covidhelp@nassaubar.org. An NCBA staff member will be in touch within two business days to direct the individual to a volunteer attorney skilled in that area of practice. Residents, small business owners, and NCBA members may also visit the NCBA COVID-19 resource web page at www.nassaubar.org for additional resources and helpful information.

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