

Commercial and Federal Litigation Section Newsletter

A publication of the Commercial and Federal Litigation Section of the New York State Bar Association

A Message from the Outgoing Chair

I welcome the opportunity, through this newsletter, to keep the 1,800 Section members informed about Section news and provide information that is helpful in daily practice, as the dedicated and energetic 2001-2002 officers assume their new roles. This issue contains an update on Section activities, recent CPLR amendments, and Executive Committee Meeting summaries. For additional information, including the *Commercial Division Law Report*, please visit the Section Web site at <http://www.nysba.org/sections/comfed>. On behalf of the Section, I appreciate your support and welcome your involvement at every level—from reading the Section’s publications and attending CLE programs to active committee involvement.



For those of you looking to offer your talents and energy to a worthwhile endeavor at this time, the Commercial and Federal Litigation Section offers an opportunity

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A Message from the Incoming Chair

As your incoming Chair, I want to share with you the excitement I feel about our Section in the coming year. Thanks to the groundwork done by Sharon Porcellio, the Section is in its strongest position in years. Moreover, I want you to be aware of the dedication and energy exhibited by the individuals whom you selected to serve as officers with me. In addition, there are numerous people on the Executive Committee who have volunteered and are working hard to make this a great year for our Section.



This incoming message will have several purposes: to recognize certain people, to advise you of new offerings by our Section, and to discuss with you certain goals for our Section. Initially, I want to thank and praise Cathi Hession, Lew Smoley, Lesley Friedman and Rich Dodge, who are the officers of the Section. Because of the creative thinking and drive of Cathi, Lew, Lesley

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A Message from the Outgoing Chair *(Continued from page 1)*

nity for you to make an immediate contribution. As you can see from the list of committees and chairpersons on pages 13-15 of this *Newsletter*, the Section offers the opportunity to work on the full gambit of substantive areas facing the commercial litigator. In addition, the Section considers the litigation process to be just as important and has committee opportunities in that realm as well, with committees involved in issues from ethics and professionalism to court structure. If a topic affects a commercial litigator, the Section no doubt has a committee to study and report on it. If the Section does not have one, it will form one or work with another Section to keep members on the cutting edge of all relevant developments.

For example, because of the emergence of Internet litigation, the Section formed a new Internet and Litigation Committee under the able guidance of our 2001-2002 Treasurer, Lesley Szanto Friedman. In light of the rapid developments in this area, that new committee worked with the NYSBA to squeeze in a half-day CLE program on "Privacy in the Electronic Age" this spring. It was a natural follow-up to the Annual Meeting program, which was a collaborative effort with the Corporate Counsel Section and included a wide-ranging examination of the Internet-related issues most commercial litigators will likely encounter, including the basics of Internet terminology, such as metatagging and cybersquatting, and a discussion of what happens when new technology collides with established legal principles, such as personal jurisdiction and intellectual property.

This Section is also pleased to welcome another volunteer, Bill Fishman, to chair the new Tax Litigation Committee. The Section is always open to suggestions and volunteers. If any member has an idea or suggestion for a project the Section can undertake or CLE programs to provide, please contact one of the officers or any member of the Executive Committee listed in this *Newsletter*.

The Section also publishes the *NYLitigator*. This year it has a new editor, Jonathan Lupkin, who works with a student editorial board at St. John's Law School to provide substantive articles of interest to commercial litigators. The Section welcomes contributions from members as well as other contributors. This year, we have had contributions from stalwarts, such as Executive Committee Member Michael Oberman, judges such as Justice Stephen Crane, and first-time contributors, such as Stephen L. Brodsky. If you have an article you would like to submit, please contact Mr. Lupkin.

In addition to the Section's membership being diverse, the Section's members also represent a diverse client base and are deeply committed to pro bono and public service activities. Executive Committee members Bernie McCarthy and Michael Martin have devoted countless hours to this effort through the Pro Bono and Public Interest Committee. Other committees also support their effort. This year, the Section's Employment and Labor Relations Committee worked with the Southern District to train attorneys to represent *pro se* litigants in mediation of employment discrimination actions.

Collaboration of effort and diversity of membership are two Section priorities. Therefore, the Section is very pleased to have increased involvement from central and northern New York and even Canada. From the Spring Meeting at Niagara-on-the-Lake, Ontario, Canada (just across the border from Buffalo) last year, to the Annual Meeting in New York City and Spring Meeting this year at The Sagamore, the Section has covered the state and beyond, geographically, this year. It has also increased participation from all sectors of practice.

In addition to all of the substantive reports and programs the Section provides, its members also gather to celebrate accomplishments, successes, milestones and others' contributions. The heartfelt tributes to Western District Judge John T. Curtin and retired Commercial Division Justice Beatrice Shainswit contained in this *Newsletter* are two shining examples of the best of the Section.

As my term ends, I truly cannot believe how quickly the year passed. There is some sadness at the conclusion of my term of office, but my experience with the incoming officers tells me that the Section is going to have a fabulous year under their stewardship. Jay, Cathi, Lew and Brian were incredible teammates. My deepest thanks to them and to everyone else who helped make this year so special for me. Little did I know when Bob Haig asked me to join the Executive Committee of this newly-formed Section many years ago, what a memorable and rewarding experience it would be. I encourage all of you to get involved. It is really worth it. Best wishes to Jay, Cathi, Lew and Lesley for the upcoming year.

Sharon M. Porcellio

A Message from the Incoming Chair *(Continued from page 1)*

and Rich, we are reviewing the structure, committees, communications, responsiveness, and goals of the Section. I was asked to write a short article for the July/August 2001 *State Bar News*. The thrust of my message was that our Section wants to bring new meaning to our members' law practice. This year we want to reach out to our members and provide information, programs and seminars which will make their law practice and service as judges easier, meaningful and more successful. The officer group has already held several meetings to plan the coming year to accomplish these goals. All of us attended a very important State Bar Leadership Conference in Albany sponsored by the New York State Bar Association leadership for all Section officers. However, we need your input, your help, your views, your complaints and your suggestions as to how the Section can be improved.

Here are some things to look for this year: thanks to Cathi, Lew, Lesley and Rich, in a short time you will see a new *Commercial and Federal Litigation Section Law Digest*, reporting electronically on important commercial law cases in New York. This *Newsletter* and the *NYLiti-gator* will contain even more relevant and significant information and articles. We welcome your advising us if you would like to contribute an article to either of these publications. We are considering adding new committees. Please review the list of committees on pages 13-15 to see if you would like to be a member and, in addition, if you recommend, we can create a new committee. We anticipate big changes in our Section's Web site. You also will see a new Web site for the New York State Bar Association. A task force chaired by Steven Younger has volunteered to work on new ideas for the Section. I am grateful for their willingness to undertake this important role. Seminars have been planned. For example, on October 11, 2001, the Securities Litigation Committee sponsored an all-day seminar on securities arbitration and litigation. On November 9, 2001, the Section and the Committee on Continuing Legal Education cosponsored a program entitled "Successfully Litigating a Commercial Case—Advanced Issues." Our committees will be preparing reports and offering programs on a variety of subjects.

There are so many individuals on our Executive Committee and in our Section who are involved in the above efforts. They include those who worked on the Annual Meeting and Spring Meeting, wrote reports, planned programs and seminars, and serve as editors of our publications. I cannot list each person individually in this message. As I noted at our 2001 Spring Meeting, when I did thank certain people individually, any suc-

cess was due to a team effort. I have been amazed at the number of people who want to become involved in our Section's activities, and I am grateful. I can assure you that I will see that these individuals receive the recognition they so richly deserve. Again, I am grateful for all your help.

You should also be aware that our Past Chairs continue to play an active in supporting our Section. The officers recently met with our Past Chairs, who offered ideas and support in many ways to achieve our goals. They regularly attend Executive Committee Meetings. We have also added new members, including federal and state court judges, to our Executive Committee.

Please note that a major goal this year will be to increase our membership. Your help is absolutely necessary in bringing new members to our Section. I was surprised to learn that half of the members of the New York State Bar Association do not belong to any Section. In addition, there are numerous attorneys, particularly commercial litigators and corporate attorneys, who are potential new members for our Section. We plan events throughout the year throughout the state to introduce our Section to attorneys and judges. A special Membership Committee, chaired by Margaret Rossi, is spearheading this membership drive. Moreover, significantly, we want to be as diverse as possible. We want to have more minority and women lawyers in our Section. We also want to have each geographic region in the state represented in our Section. We would welcome any suggestions from you on how to increase our membership, and we would ask you to participate in membership events.

Please especially keep in mind our Annual Meeting and Spring Meeting 2002. We are already planning our Annual Meeting under Lew Smoley's leadership and our Spring Meeting, which will be held the weekend of May 3-5, 2002, at the Mohonk Mountain House near New Paltz, NY, under Cathi Hession's leadership. We had a tremendous turnout at the Spring Meeting 2001 at The Sagamore. Your comments, complaints and suggested improvements to make the Annual Meeting and Spring Meeting 2002 even more successful would greatly be appreciated. In addition, if you would like to see us undertake programs with other Sections, let us know.

There is so much I want to share with you, but space does not permit it. Thank you for being members of this Section. With your help, we will achieve our goals and lay the foundation for our Section to grow and prosper in the coming years.

Jay G. Safer

Employment and Labor Relations Committee Conducts Training for the Southern District of New York

By Carrie H. Cohen

On November 15, 2000, the Employment and Labor Relations Committee of the Commercial and Federal Litigation Section, in conjunction with the *Pro Se* Office for the Southern District of New York, conducted a training of volunteer attorneys to represent *pro se* litigants in mediation of employment discrimination actions.

In January 2000, Southern District judges began to send *pro se* employment discrimination cases to mediation. The *pro se* mediation program was designed by the Southern District *Pro Se* Litigation Committee, chaired by the Hon. Deborah A. Batts, in conjunction with the *Pro Se* Office, formerly chaired by Lois Bloom, Senior Staff Attorney who is now a Magistrate Judge in the Eastern District of New York. The purpose of the program was to reduce the backlog of *pro se* employment discrimination cases in the Southern District while providing litigants with a quicker and equally satisfactory resolution of their cases. Mediation is particularly well-suited to employment discrimination actions where emotions can run high and remedies other than money, such as a letter of recommendation or apology, may be instrumental in resolving the case.

Under the *pro se* mediation program, judges identify *pro se* employment discrimination actions that they believe have a possibility of settlement, and if both parties consent to mediation, then the case is referred to the *Pro Se* Office for mediation. The mediators are drawn from the Southern District Mediation Program's volunteer pool of mediators, and the *Pro Se* Office assigns a volunteer attorney to represent the *pro se* plaintiff solely for the purpose of mediation. Importantly, the volunteer attorney commits himself or herself to represent the *pro se* plaintiff only in the mediation and there is no obligation to represent the plaintiff further if the mediation fails.

Prior to the training, members of the New York chapter of the National Employment Lawyers Association had agreed to volunteer as attorneys, but the Southern District was in need of more volunteer attorneys. Carrie H. Cohen, Co-Chair of the Employment and Labor Relations Committee, worked with now Judge Bloom to create a program whereby committee members would not only volunteer as attorneys but also help train other attorneys to further expand the pool of available volunteers.

The result of this collaboration was a half-day training session held at the Southern District of New York and attended by more than 50 volunteers, many of whom were recruited through New York Lawyers for the Public Interest. The Hon. Harold Baer gave introductory remarks and guidance on how to ensure a successful mediation. Members of the committee then trained the attendees on substantive employment discrimination law and mediation of an employment discrimination action. Specifically, Susan Schenkel-Savitt, partner at Winston and Strawn, and Laura S. Schnell, partner at Eisenberg & Schnell LLP, spoke on the substantive law and how to evaluate an employment discrimination action; Dona S. Kahn, of counsel at Anderson Kill & Olick, P.C., spoke about defenses; James D. Esseks, then partner at Vladeck, Waldman, Elias & Engelhard, P.C. and now Litigation Director at the Lesbian and Gay Rights and AIDS Projects of the American Civil Liberties Union, and Edward P. O'Keefe, in-house counsel at Deutsche Bank Securities, spoke about damages issues; and Carrie H. Cohen, Co-Chair of the Committee and Assistant Attorney General in the Civil Rights Bureau of the N.Y. Attorney General's Office, and Janice Goodman, partner at Goodman & Zuchlewski, P.C., spoke about mediation of employment discrimination actions. David S. Ross, mediator at JAMS, also gave a presentation on how to mediate an employment discrimination action from the mediator's point of view. The attendees also received extensive handout materials that included general information about mediation and liability and remedy issues in employment discrimination actions as well as a case evaluation worksheet, damages worksheet and sample settlement agreement.

The feedback from the training was overwhelmingly positive, and the Southern District now has a large cadre of attorneys specifically trained and ready to represent *pro se* plaintiffs in mediation of employment discrimination actions. Hopefully, this program will continue to be successful and will help the Southern District reduce its caseload as well as provide litigants with quicker and more satisfactory case resolution.

Carrie Cohen is Co-Chair of the Employment and Labor Relations Committee of the Commercial and Federal Litigation Section.

A Toast to Justice Shainswit

By Lewis M. Smoley



Rarely does an opportunity arise for bench and bar to gather for the sole purpose of honoring one of their own, a groundbreaking commercial lawyer and distinguished jurist who, after nearly a half-century of dedicated service to the law, is about to retire from the bench. Such an occasion recently celebrated Justice Beatrice Shainswit, lately of the New York State Supreme Court, Civil Branch, New York County, and one of the first judges assigned to the newly formed Commercial Division. For nearly 30 years, Justice Shainswit served on the bench in both the New York City Civil Court and New York State Supreme Court in Manhattan. She is a longtime supporter of the NYSBA and an active member of the Commercial and Federal Litigation Section, serving on both its Executive Committee and Commercial Division Committee. When we heard that Justice Shainswit would be retiring from the bench at the end of 2000, we knew that we could not let the occasion pass without celebrating her distinguished career. And so on the afternoon of December 11, 2000, in the rotunda of the New York State Supreme Court Building at 60 Centre Street in Manhattan, our Section, in conjunction with the Judicial Section of the New York County Lawyers' Association and the Board of Justices of the Supreme Court co-sponsored a "toast" to Justice Shainswit on the occasion of her retirement.

Formal invitations were sent to members of our Section and the co-sponsoring associations. Official toastmasters included Chief Judge Judith S. Kaye; Chief Administrative Judge Jonathan Lippman; Administrative Judge of the Manhattan Supreme Court, Civil Division, Justice Stephen G. Crane; and the Senior Judge of the U.S. District Court for the Southern District of New York, Constance Baker Motley. Our Section's then Chair-Elect, Jay G. Safer, presided. Not only did we hear some delightful comments from the four distinguished toastmasters, but three of Justice Shainswit's judicial colleagues, Justice Phyllis B. Gangel-Jacob and Justice Stan-

ley L. Sklar, both of whom preside with Justice Shainswit at 60 Centre Street, and Justice Abraham G. Gerges of the Second Department, offered their personal and professional perspectives on our honoree. Over 200 participants from bench and bar packed the rotunda to pay homage to Justice Shainswit. They all raised their glasses in a celebratory toast to a highly respected judge. Lawyers and judges came from near and far to join with Justice Shainswit's husband—who also had a distinguished career as a trial attorney—and family in paying tribute to her. The turnout evidenced the high regard that both her fellow judges and practitioners have for her.

A special highlight of the event was the exhibition of memorabilia from Justice Shainswit's career and personal life that filled the display cases that surround the perimeter of the rotunda. Photos, papers, and other articles traced the history of the Justice's significant career from her law school days through her years as one of the judges in the Commercial Division. The magnificent ambiance of the rotunda, surrounded by Romanesque pillars and domed with neo-classical paintings, lent a touch of grandeur to the proceedings.

When we invited Chief Judge Kaye to participate, she said that we must make certain that the date for the event did not conflict with her busy schedule, because she wouldn't think of missing this opportunity to honor Justice Shainswit. During the Chief Judge's "toast," she reminded us that before Justice Shainswit served on the bench in New York County, she was the general counsel to two New York City Council presidents and the State Rent Commission (later to become the City Rent Commission). Shainswit's record of service to countless bar, civil, religious, and business associations is truly remarkable. Chief Administrative Judge Lippman and Administrative Judge Crane recalled how they often sought Justice Shainswit's advice when they were first

appointed to their current positions. Senior Judge Motley reminded us that her longtime friend was one of the first women judges to be elected to the New York State Supreme Court. Justice Gangel-Jacob, a prime mover in organizing the event, and Justice Sklar, who succeeds Justice Shainswit as president of the Board of Justices of the Supreme Court, New York County, shared fond memories of association with their friend and colleague. Justice Gerges could not accept the notion that someone as active and energetic as Justice Shainswit should ever retire. Although everyone's remarks were necessarily brief, it was clear that each of the speakers would have enjoyed going on at a greater length, regaling the assembled group with delightful stories and paying tribute to Justice Shainswit's career. After the "toasts" were concluded, Jay Safer presented the Justice with a plaque on behalf of the Commercial and Federal Litigation Section, in recognition for her distinguished service to the legal profession and her participation on the Executive Com-

mittee of our Section, of which she has promised to remain an active member.

On behalf of the Commercial and Federal Litigation Section, and its Executive Committee, I would like to thank Justice Gangel-Jacob, for giving so generously of her time to help organize the event; Sophia J. Gianacoplos, Deputy Executive Director of the New York County Lawyers Association, for her invaluable assistance in our cooperative efforts; Norman Goodman, Chief Clerk of the New York County Clerk's Office, for being so helpful in arranging the use of the rotunda; and a special thanks to former Section Chair, Robert L. Haig, whose important contributions helped to make this affair a complete success.

Lewis M. Smoley is Executive Vice-Chair of the Commercial and Federal Litigation Section and Chair of its Commercial Division Committee.



2002 New York State Bar Association Annual Meeting

January 22-26, 2002
New York Marriott Marquis

COMMERCIAL AND FEDERAL LITIGATION
SECTION MEETING

Wednesday, January 23, 2002

2001 Annual Meeting Attendees Get "Crash" Course in Internet Law

Internet law: it's not just for the netheads anymore. That was the message of the Section's 2001 Annual Meeting program, "What the Savvy Commercial Lawyer Knows About the Internet," which took place before an audience of over 200 on January 24. Starting with the premise that every client is an online client in today's interconnected world, the program offered wide coverage of Internet-related legal topics most likely to cross a general commercial litigator's desk. Executive Vice-Chair and Program Chair Cathi Hession and Lesley Szanto Friedman, Chair of the Section's new Internet and Litigation Committee, organized the event.

Lesley gave the kickoff lecture, introducing commercial litigators to Internet law and explaining the fundamentals of personal jurisdiction on the Web. In the realm of intellectual property, keynote speaker Professor William W. Fisher, III of Harvard Law School introduced Section members to such terms as cybersquatting, metatagging, framing and deep linking, and illustrated how these new concepts map onto more familiar intellectual property terrain. In an especially memorable demonstration, he showed how a Web publisher, such as a former Playboy model, might encode Playboy-owned trademarks into the deep structure of her Web site in order to draw traffic away from Playboy.com. Professor Fisher then armed the audience members with the knowledge of new (and old) cases, statutes and doctrines they needed to bring or defend against an infringement action in such cases.

The country's top antitrust regulator in the area of business-to-business electronic marketplaces, Susan DeSanti, impressed upon the audience the expected



(l to r) Hillary Smith, Lesley Szanto Friedman, Nancy Savitt

magnitude of B2B marketplaces in coming years (in the trillions of dollars by 2004). DeSanti, Director of Policy Planning for the FTC, set forth the criteria the FTC intends to apply in assessing the legality of buying and selling groups in B2B electronic marketplaces. Her thorough

discussion of the FTC's recent opinion letter regarding Covisint, an automotive parts-buying consortium consisting of five major car manufacturers, provided attendees with clear guidance for advising clients intent on building such consortia how the FTC considers such enterprises, including her belief that most potential problems can be resolved with early planning and discussion.

Former Magistrate Judge Carol E. Heckman provided attendees with much-coveted ethics credits with her lecture, "Legal Ethics and the Inter-



Chief Judge Kaye presenting Section's Stanley H. Fuld award to Professor David Siegel

net." Judge Heckman (virtually) painlessly explained the do's and don'ts of setting up a law firm Web site, the standards of care for encryption of e-mails, and other ethical issues that every lawyer ought be aware of in this wired world.

As always, the lunch program was well attended by the state's top commercial litigators, judges from the federal and state benches, and other distinguished guests. Section Chair Sharon Porcellio presided over the luncheon, and Nominating Committee member Bernice Leber proposed a new slate of officers for the June 2001-May 2002 term: Jay Safer, Chair; Cathi Hession, Chair-Elect; Lew Smoley, Executive Vice-Chair; G. Richard Dodge, Jr., Secretary; Lesley Szanto Friedman, Treasurer; and Sharon Porcellio, Delegate to the House of Delegates. The slate was unanimously approved.

The highlight of the luncheon was Chief Judge Judith Kaye's presentation of the Stanley H. Fuld Award to Albany Law School Professor David Siegel for his outstanding contributions to commercial law and litigation. Lauding Professor Siegel as "master of his subject," the CPLR, Judge Kaye thanked Professor Siegel for his many years of teaching and writing in the field of New York and federal civil practice and procedure. Professor Siegel gave a gracious acceptance speech, acknowledg-

ing his many friends and colleagues who turned out for the presentation, including his wife, Rosemarie.

The afternoon program was a joint session of our Section and the Corporate Counsel Section, co-chaired by Cathi Hession and David Perlman. Lesley Szanto Friedman moderated a panel discussion of "Commercial Uses and Misuses of Information on the Web." David Bernard led off with a provocative presentation—"What Do Companies Do With All That Information, Anyway?"—an explanation of how businesses use customer data gleaned from Web browsing, purchasing habits, and other interactions, to grow their businesses and generate more profits. Carey Ramos lectured on protection of digital content on the Web, including a thorough discussion of the pending *Napster* case. Nancy Savitt introduced the hot topic of privacy on the Web for financial and other personal information and New York State's top Internet regulator,



(l to r) Jay Safer, Sharon Porcellio, Professor David Siegel, Rosemarie Siegel, Cathi Hession, Brian Bocketti and Lewis Smoley

Kenneth Dreifach, Chief of the Internet Bureau of the State AG's Office, discussed trends in privacy enforcement. Linda Goldstein detailed the basic rules and pitfalls of contests and sweepstakes on the Web, and then, together with Nancy Savitt and online alternative dispute resolution (ADR) specialist Professor Janet Rifkin, engaged in a discussion of online ADR.

Wrapping up the day was an entertaining presentation by Hillary Smith, a former commercial litigator now serving as Associate General Counsel for Litigation at DoubleClick, with tips on working with clients in the fast-paced Internet industry.

A vidoetape or two-volume handbook of the program is available from the Bar Association's CLE Department (800-582-2452). (The Commercial Lawyer and the Internet (PN 3143)).

FOR MEMBERS ONLY!

New York State Bar Association

Yes, I would like to know more about NYSBA's Sections. Please send me a brochure and sample publication of the Section(s) indicated below.

SECTIONS

- | | |
|--|---|
| <input type="checkbox"/> Antitrust Law | <input type="checkbox"/> International Law & Practice |
| <input type="checkbox"/> Business Law | <input type="checkbox"/> Judicial (<i>Courts of Record</i>) |
| <input type="checkbox"/> Commercial & Federal Litigation | <input type="checkbox"/> Labor & Employment Law |
| <input type="checkbox"/> Corporate Counsel
<i>(Limited to inside full-time counsel)</i> | <input type="checkbox"/> Municipal Law |
| <input type="checkbox"/> Criminal Justice | <input type="checkbox"/> Real Property Law |
| <input type="checkbox"/> Elder Law | <input type="checkbox"/> Tax Law |
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Please return to: **Membership Department**
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**SCENES FROM THE
COMMERCIAL AND FEDERAL LITIGATION SECTION
2000 SPRING MEETING
NIAGARA-ON-THE-LAKE, ONTARIO, CANADA**



**Photo left:
(l to r) Judge Maas, Judge Peck,
The Honorable Mr. Justice Dennis O'Connor,
Barry Leon (Torys—Toronto)**

**Photo right:
(l to r) Erie County Commercial Division Law
Clerk Jeffrey A. Spencer and Julia Holland**



**Photo left:
(l to r) Brad Sveistrup, Christina Litz and
Alexandra Clark**

A Tribute to Hon. John T. Curtin Recipient of the 2000 Robert L. Haig Award for Distinguished Public Service



Judge Curtin Receiving 2000
Robert L. Haig Award

The Longest Time

By William C. Schoellkopf

In the Western District of New York
Sitting on the bench in federal court
One thing is certain
There is a judge named Curtin
And he's been with us for the longest time

Ever since the call to come to work
Joining Judges Henderson and Burke
He's set a standard
of spirit, poise and candor
That we will honor for the longest time

Patents, trademarks, hazardous waste
He's handled each case
With courage and grace
Civil rights, ERISA and tax
He's ruled on the facts
and that's all we could hope for

Brought the city fathers to their knees
Fighting racial inequalities
Desegregation
A model for the nation
That will be honored for the longest time

Through the years of turmoil and change
His staff has remained
Remarkably the same

One courtroom deputy, two secretaries
Two court reporters, and thirty-three law clerks

So we're here tonight to celebrate
And to show that we appreciate
Your dedication
A well-deserved ovation
You will remember for the longest time

Notes of the Section's Executive Committee Meetings

February 22, 2001

Guest speaker Hon. Stephen G. Crane, Chief Administrative Justice, First Judicial District, Supreme Court, Civil Branch, discussed the United Court System's Electronic Filing Pilot Program.

The Executive Committee approved a report, entitled "Does Discovery of Electronic Information Requirement Amendments to the Federal Rules of Civil Procedure?" by the Committee on Federal Procedure; the report concludes that discovery of electronic information can be dealt with under the present rules and that no changes in the FRCP are required in that regard. With modifications, the Executive Committee also approved proposals by the Section's Working Group on Cameras in the Courtroom commenting on the Preliminary Report of the New York State Bar Association Special Committee on Cameras in the Courtroom to the House of Delegates, as well as comments by the Section's Appellate Practice Committee to the Advisory Committee on Appellate Rules regarding the Advisory Committee's Proposed Amendments to the Federal Rules of Appellate Procedure. The Section's CPLR Committee reported on its comments on proposed amendments to CPLR 2303 that would require notice to each party when a trial subpoena is served on a non-party.

March 29, 2001

Guest speaker Hon. Gerard E. Lynch of the U.S. District Court for the Southern District of New York shared his observations with the Executive Committee.

The proposal of the CPLR Committee to endorse proposed amendments to CPLR 3101, 3113, and 3115 was approved by the Executive Committee. Lewis Smoley reported on his participation in an upcoming joint study of the Section, the New York County Clerk's office, and the Office of Court Administration to develop suggestions for improving the procedures for entry of judgments in New York County. Stephen Orel reported on the work of the Section's International Litigation Committee on a series of articles discussing the draft Hague Convention on Jurisdiction and Foreign Judgments in Civil and Commercial Matters.



April 26, 2001

Guest speaker Hon. Helen E. Freedman, New York State Supreme Court Justice for the First Judicial District, discussed the work of the Commercial Division.

The Executive Committee voted to oppose a proposal to create a new CPLR 3408 authorizing New York State courts to hold pre-trial conferences.

May 2001

Spring Meeting of the Section.

June 19, 2001

Guest Speaker Hon. Angela M. Mazzarelli, Supreme Court of the State of New York, Appellate Division, First Department, gave an overview of the Appellate Division, First Department.

The Executive Committee approved a report of the CPLR Committee opposing a proposed amendment to CPLR 3124 that would prohibit the entry of a sealing or confidentiality order or judgment if it has the effect of concealing information about a "public hazard." The Executive Committee also approved a proposal to distribute to members of Congress a report of the Section's Employment and Labor Relations Committee on the proposed Civil Rights Tax Fairness Act, regarding taxability of damages in employment discrimination cases.

July 18, 2001

Guest Speaker Hon. Richard Owen, U.S. District Court for the Southern District of New York, gave his observations on practice in the Southern District.

With modification, the Executive Committee approved a report of the CPLR Committee regarding a proposal for the revision of CPLR article 65, concerning the filing, recording, and cancellation of written notice of pendency. The Chair of the Section announced the formation of a task force to provide input on how the Section can better serve its members and recruit new members.

**2001 Amendments to the Uniform Rules
for Supreme and County Courts,
Rules Governing Appeals in the
Court of Appeals and the Appellate Division,
and Certain Other Rules of Interest to Commercial Litigators**

22 N.Y.C.R.R.	Court	Subject (Change)
137	Statewide	Fee Dispute Resolution Program (new)
202.6(b)	Sup./County	RJI (corrects cross-reference to CPLR 3102(e))
202.16(f)	Sup./County	Preliminary conferences in matrimonial actions (deletes filing requirement for exchanged papers)
206.8	Court of Claims	Motions (replaces good faith affirmation with mandatory conferral with judge; requires OTSC for motion to withdraw)
206.13	Court of Claims	Calendars (eliminates general calendars)
206.15	Court of Claims	Dismissal from calendar (ties calendar dismissals to note of issue)

**CPLR AMENDMENTS
2001 LEGISLATIVE SESSION
(Through Chapter 380¹)**

CPLR	Chapter (§)	Change	Eff. Date
213-b	62(16)	Adds statute of limitations in actions by crime victim against person convicted of certain crimes	6/25/01 ²
2301	355(1)	Adds requirement that copy of trial subpoena accompany documents produced in court pursuant to the subpoena; changes cross-reference to DSS	1/1/02
4525	84(39)	Changes cross-reference to UCC	7/1/01
5011	62(10)	Adds notification to Crime Victims Board and restrictions on prisoners' judgments	6/25/01 ²
5205(c)(2)	141(1)	Adds I.R.C. § 457 plans to list of trusts	8/6/01 ³
5205(k) (new)	62(11)	Adds partial exemption from execution or enforcement of judgment awarded to convicted person	6/25/01 ²
5234(b)	84(40)	Changes cross-reference to UCC	7/1/01

1. Chapters 1-3 have not yet been enacted.
2. Notwithstanding the expiration of any other statute of limitations, Ch. 62 applies to (i) all judgments originally entered prior to 6/25/01, regardless of whether the judgment is subsequently amended or satisfied on or after 6/25/01; and (ii) all judgments, obligations, or agreements to pay profits from a crime or funds of a convicted person entered, incurred, or entered into on or after 6/25/01.
3. Applicable to any case decided on or after 10/1/2000.

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