

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 Chair

The Assault on the Attorney-Client Privilege

In recent years, a trend has developed among prosecutors to ask defendants, especially those in the corporate sector, to waive the attorney-client privilege as part of a criminal investigation. Such waivers took on additional importance when the so-called Thompson Memorandum was issued by the Department of Justice in January 2003, making the waiver of the attorney-client privilege a factor in analyzing whether a corporation should be charged with criminal conduct. This practice has great concern for the legal profession, which holds dear the attorney-client privilege, regarding it as one of the most sacred legal principles.



Stephen P. Younger

Our recent Annual Meeting, organized by the Section's Vice-Chair Carrie Cohen, focused on the ethical concerns that practicing lawyers have when handling corporate investigations. A point made at the program was that outside counsel in essence becomes an agent of the government when internal corporate investigations are conducted with the backdrop of an eventual need to waive privilege. This can serve to chill the candor that lawyers hope to promote in their corporate clients when conducting investigations. It is difficult to give clients sound advice when witnesses who work for the corporation hold back out of fear that their statements could be delivered to the prosecutors. This is one of the evils that the privilege was intended to prevent.

Our Section hosted the Presidential Summit at this year's Annual Meeting. One of the topics on which the Summit focused was waivers of privilege in corporate investigations. A distinguished panel of speakers pointed out that one of the difficulties that arises from a privilege waiver in this context is the impact on collateral litigation. Quite frequently, large litigations follow in the footsteps of corporate investigations. Where the corporation feels compelled to waive privilege in order to show the prosecutor that it is cooperating, it creates the risk of a full-blown waiver that can be utilized in these civil lawsuits. Legislation has been proposed to rectify

Inside

Commercial Division Uniform Rules Become a Reality	3
(Vincent J. Syracuse)	
Scenes from the Tenth Anniversary Celebration of the Commercial Division of the New York State Courts	5
OCA Appoints Special Counsel for Commercial Division	6
New Executive Committee Member Spotlight: Preeta D. Bansal	7
Led by a Distinguished Panel of Experts from the Bench and Bar, Annual Meeting Program Discusses Ethical Issues Faced by Commercial and Federal Litigators	8
(Carrie H. Cohen)	
CPLR Amendments 2005 Legislative Session (Chapters 1-770)	10
2006 Amendments to the Uniform Rules for Supreme and County Courts, Rules Governing Appeals, and Certain Other Rules of Interest to Civil Litigators	11
Notes of the Section's Executive Committee Meetings	12

this difficulty. Until the issue is clarified, a serious risk will affect many of our corporate clients.

On the other hand, it was also noted at the Summit that witnesses who are asked to be interviewed in corporate investigations must often choose between cooperating with the company or asserting their Fifth Amendment protections, which could lead to a termination of employment. This Catch-22 is particularly burdensome for low-level employees, who may be unable to afford the loss of job protection that this predicament creates.

State Bar President A. Vincent Buzard recently formed a task force to review the impact these issues

have on the attorney-client privilege. Our Section's past-Chair, Lauren Wachtler, is serving on this task force and will represent our Section's interest.

As lawyers, we all need to be aware of the chilling effect that privilege waivers can have, particularly where corporations are given little choice but to waive privilege in light of the current enforcement climate. We should all be cognizant of this growing problem and look for creative solutions to address this important issue.

Stephen P. Younger

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***NYLitigator* and *Commercial and Federal Litigation Section Newsletter* Index**

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Commercial Division Uniform Rules Become a Reality

By Vincent J. Syracuse

On January 17, 2006, statewide uniform rules for the Commercial Division of the Supreme Court of the State of New York became a reality. The need for statewide uniform rules was an issue that was first addressed at the Section's Spring meeting in Hershey, Pennsylvania, in May 2003 when Commercial Division judges from throughout New York State gathered together with members of our Section for a discussion of a variety of Commercial Division practice issues that included the notion that the guidelines for the assignment of Commercial Division cases and rules of practice should be uniform throughout the State. During the following two and a half years, the Section's Commercial Division Committee, working in tandem with the bench, court administrators, and representatives of various bar associations, helped brainstorm the various criteria that make a case a commercial case and participated in the drafting of the new rules that recently went into effect.



Rule 202.70 of the Uniform Rules for the Supreme Court and the County Court (22 N.Y.C.R.R. § 202.70) is the result of an unprecedented collaborative effort that over the years produced numerous drafts, that took advantage of the lessons learned from the Commercial Division's ten-year history, and that attempted to respond to the needs of the bench and the bar throughout the State of New York. The Rule also addresses various concerns that were expressed from time to time by the business community, the Commercial Division's ultimate consumer, who wanted predictability in the Commercial Division.

The new uniform rule controls both the assignment of cases to the Commercial Division and pre-trial and trial procedures in the various Commercial Division venues throughout the State of New York. The absence of a statewide uniform definition of what constitutes a commercial case was a common concern raised by Commercial Division judges and litigators, as the Commercial Division evolved from its inception in New York and Monroe Counties to its later expansion to nine different venues located across the State. The enactment of a uniform definition, in the words of Chief Administrative Judge Jonathan Lippman, "takes the guesswork out of litigating in the Commercial Division" and will broaden the range of commercial matters that will be assigned to the Commercial Division.

Though the monetary thresholds range from \$25,000 to \$100,000 for compensatory damages, the definition of a commercial case is the same from Montauk to Buffalo. Rule 202.70(b) identifies twelve categories of commercial litigation that will be assigned to the Commercial Division:

1. Breach of contract or fiduciary duty, fraud, misrepresentation, business tort (e.g., unfair competition), or statutory and/or common-law violation where the breach or violation is alleged to arise out of business dealings (e.g., sales of assets or securities; corporate restructuring; partnership, shareholder, joint venture, and other business agreements; trade secrets; restrictive covenants; and employment agreements not including claims that principally involve alleged discriminatory practices);
2. Transactions governed by the Uniform Commercial Code (exclusive of those concerning individual cooperative or condominium units);
3. Transactions involving commercial real property, including Yellowstone injunctions and excluding actions for the payment of rent only;
4. Shareholder derivative actions—without consideration of the monetary threshold;
5. Commercial class actions—without consideration of the monetary threshold;
6. Business transactions involving or arising out of dealings with commercial banks and other financial institutions;
7. Internal affairs of business organizations;
8. Malpractice by accountants or actuaries, and legal malpractice arising out of representation in commercial matters;
9. Environmental insurance coverage;
10. Commercial insurance coverage (e.g., directors and officers, errors and omissions, and business interruption coverage);
11. Dissolution of corporations, partnerships, limited liability companies, limited liability partnerships and joint ventures—without consideration of the monetary threshold; and
12. Applications to stay or compel arbitration and affirm or disaffirm arbitration awards and related injunctive relief pursuant to CPLR Article 75

involving any of the foregoing enumerated commercial issues—without consideration of the monetary threshold.

Rule 202.70(c) places certain kinds of litigation outside of the Commercial Division by giving examples of non-commercial cases, including fee collection cases, certain declaratory judgment insurance matters, basic residential real estate and landlord-tenant disputes, commercial rent disputes, judgment enforcement proceedings, first-party insurance claims, actions by insurers to collect premiums or rescind non-commercial policies, and basic attorney malpractice actions.

Rule 202.70(d), (e), and (f) resolve several procedural issues regarding the assignment of a case to the Commercial Division. The party filing an RJI has the first crack at getting a case assigned to the Commercial Division. If the request is not made by the party filing the RJI, other parties in the case can make the request. There is also a letter application procedure for the transfer of cases in and out of the Commercial Division.

Experienced Commercial Division practitioners should take a careful look at Rule 202.70(g), the rules of practice, as there are some innovative new rules and others that, at first blush, may seem familiar but actually have a few new twists. For example, Rule 8 requires that counsel consult early in the case about e-discovery and identify for resolution at the preliminary conference several issues such as the preservation of electronic data and cost shifting. Another innovation is Rule 23 that attempts to address the problem of undecided motions and the dilemma faced by those of us trained to be cautious about contacting chambers about submitted matters. The rule says that when a motion remains undecided 60 days after submission, “counsel for the movant shall send the court a letter alerting it to this fact” One hopes that litigators will not seize on this rule as an opportunity to rehash arguments or make additional submissions on undecided motions.

One rule that New York County Commercial Division litigators have been living with for several years that did not find its way into the new rules—at least not directly—is old Rule 12, which several New York County Commercial Division judges adopted for use in their parts. This rule purported to eliminate the statutory discovery stay created by CPLR 3214(b) when a motion is made pursuant to CPLR 3211 or 3212. Rule 11(d) puts this issue on the agenda for the preliminary conference by requiring that counsel have the court determine whether discovery should be stayed in the event a party chooses to make a dispositive motion before discovery is completed.

Some of the new rules are variations of rules that have been beta-tested in various Commercial Division venues and may sound familiar to federal court practitioners:

- Rule 11 sets the agenda for the preliminary conference, an agenda that, in addition to a comprehensive discovery schedule, includes ADR and the schedule for limited discovery and dispositive motions in aid of settlement.
- Rule 14 requires consultation between counsel on all disclosure disputes and then a conference with the court if the dispute remains unresolved before a discovery motion can be made.
- Rule 19-a gives a Commercial Division Judge the power to direct that a party moving for summary judgment file a statement of material facts not in dispute which must be supported by citations to the relevant evidence. The statement will be deemed admitted unless the opposing party submits a counterstatement with citations to the supporting evidence.
- Rule 20 puts an end to the days of the *ex parte* temporary restraining order. In the absence of a showing of prejudice by the moving party, “[t]he applicant must give notice to the opposing parties [and an] opportunity to appear and contest the application.”
- Rule 22 requires a request for oral argument on the face of the motion papers.
- Rule 24 requires that the parties give the court an opportunity to resolve the issues before a discovery or dispositive motion can be made. The rule directs that counsel submit a letter, no longer than two pages, describing the reasons for the motion and providing for the scheduling of either a telephone or in-court conference before the motion can be made.

The Commercial Division had its origin in a report issued by the Section in January 1995, which expressed the need for a separate division of the Supreme Court for the adjudication of commercial cases. Judicial expertise, coupled with effective case management, has made the Commercial Division the forum of choice for commercial litigants and a model for commercial courts in other jurisdictions. The enactment of uniform rules represents a further step in the development of the Commercial Division as a center for the resolution of commercial disputes and will help the court respond to the needs of 21st-century commercial litigants.

Vincent J. Syracuse is the Section’s Treasurer and the Chair of its Commercial Division Committee. He is a partner in Tannenbaum Helpert Syracuse & Hirschtritt LLP, where he is the Chair of its Litigation Department.

SCENES FROM THE
**TENTH ANNIVERSARY CELEBRATION
OF THE COMMERCIAL DIVISION
OF THE NEW YORK STATE COURTS**
NOVEMBER 21, 2005
LINCOLN CENTER FOR THE PERFORMING ARTS



Mark Alcott and
Lesley Friedman Rosenthal



Hon. Judith Kaye and
Stephen Younger



Lesley Friedman Rosenthal, Hon. Jonathan Lippman,
Hon. Judith Kaye and Stephen Younger



Commercial Division Judges

OCA Appoints Special Counsel for Commercial Division

Jeremy R. Feinberg has joined the Office of Court Administration and the staff of First Deputy Chief Administrative Judge Ann Pfau as Statewide Special Counsel for the Commercial Division. In that role, he will be providing support and assistance to all of the Justices and employees of the Commercial Division courts throughout New York State. He will also serve as a resource for bar association committees, practitioners, and litigants who have questions, comments, or suggestions.

A key purpose of Mr. Feinberg's job is to be a point person for both the bench and the bar—a central person within OCA that either group can approach when there

are systemic issues or other matters to discuss. The improved communication Mr. Feinberg will help foster will only continue the collaboration between the Commercial Division courts and their customers that has marked the first decade of the courts' existence.

Previously, Mr. Feinberg had been a litigator at the New York office of Proskauer Rose, where he frequently litigated before the Commercial Division courts. He was also a law clerk to Chief Judge Kaye from 1996-1998. He was a 1995 graduate of Columbia Law School, and a 1992 graduate of Columbia College.

He can be reached at jfeinber@courts.state.ny.us.

New Pro Bono Corner Column— ***WE NEED YOUR STORIES!***

The Section's Pro Bono Committee is soliciting brief stories about pro bono work you have done or know about for a new column in the *Newsletter*, tentatively entitled, "Pro Bono Corner." The piece should explain how you got involved in the work, the people/organizations you worked with, the nature of the work, the outcome, what you learned, and why you believe that it was a valuable experience. The idea is to raise awareness of the different types of pro bono work that our Section members undertake.

The submission deadline for our next newsletter is **May 1, 2006**, so we would greatly appreciate any stories that you are willing to share and will be happy to take care of any editing that is required.

New Executive Committee Member Spotlight: Preeta D. Bansal

The Section's Executive Committee is pleased to welcome Preeta D. Bansal as the new Co-Chair of the Appellate Practice Committee and as Chair of the Section's newly formed Special Task Force on State Court Appeals. Preeta is a partner at Skadden, Arps, Slate, Meagher & Flom LLP, where her practice encompasses appellate and Supreme Court litigation, as well as First Amendment/media and copyright litigation and counseling. Preeta also serves as a Commissioner and immediate past Chair of the United States Commission on International Religious Freedom, a bipartisan federal agency that advises the President, Secretary of State, and Congress on ways to globally promote freedom of thought, conscience, and religion or belief, as defined in the international human rights instruments, through U.S. foreign policy. Preeta was appointed and reappointed to the Commission by the United States Senate Minority Leader Tom Daschle, and was elected Chair by her fellow Commissioners for 2004-2005. In that capacity, Preeta advised on the constitutions of Iraq and Afghanistan, and has undertaken numerous diplomatic missions abroad, including to Afghanistan, Hong Kong, Uzbekistan, China, and Jordan.

Prior to joining Skadden, Arps, Preeta served as the Solicitor General of the State of New York during Attorney General Eliot Spitzer's first term. The Solicitor General is the only statutory position other than the Attorney General in the New York State Department of Law and helps oversee and coordinate the work and legal positions assumed by the 600 attorneys in the Attorney General's Office statewide. As Solicitor General, Preeta directly supervised 45 lawyers in the Solicitor General's Office, who filed 40 to 50 appellate briefs each week. She also played a principal role in helping Attorney General Spitzer articulate a jurisprudential basis for a proactive enforcement role for state attorneys general

nationwide in the wake of the Supreme Court's "new federalism" jurisprudence. During Preeta's tenure, the New York Attorney General's Office and she received the "Best United States Supreme Court Brief" award from the National Association of Attorneys General for the first time, and then again in each year of her leadership.

Preeta is a *magna cum laude* graduate of Harvard Law School, as well as a Phi Beta Kappa, *magna cum laude* graduate of Harvard-Radcliffe College. She served as a law clerk to United States Supreme Court Justice John Paul Stevens, as well as a law clerk to then-Chief Judge James L. Oakes of the United States Court of Appeals for the Second Circuit. She previously engaged in private law practice in Washington, D.C., and New York City, worked in the White House and United States Department of Justice from 1993-1996 (where she assisted with judicial nominations and confirmations for President Clinton, including the confirmations of Justices Ginsburg and Breyer), and has taught constitutional law and First Amendment jurisprudence. Preeta also is widely published on op-ed pages as well as in scholarly law journals and currently serves as a Commissioner on New York City Mayor Bloomberg's Election Modernization Task Force and is on the Advisory Board of the Clinton Global Initiative.

Preeta and her Co-Chair, David H. Tennant, have a number of exciting new Committee projects underway, including examining the procedures of the State Appellate Courts and the Court of Appeals for the Second Circuit's certification of State law issues to State high courts. If anyone is interested in joining the Appellate Practice Committee, you can contact Preeta at pbansal@skadden.com and David at dtennant@nixonpeabody.com.

Law Student Pro Bono Assistance Available to Section Committees

Columbia Law School, like many law schools, requires, as a condition for graduation, a certain number of pro bono hours. The Pro Bono Coordinator at Columbia's Center for Public Interest Law has confirmed that students may fulfill their pro bono service requirement by providing legal research and/or writing assistance on Section reports. For further information, contact Adrienne FitzGerald at 212-854-8360 or at afitzg1@law.columbia.edu.

Led by a Distinguished Panel of Experts from the Bench and Bar, Annual Meeting Program Discusses Ethical Issues Faced by Commercial and Federal Litigators

By Section Vice-Chair Carrie H. Cohen

The Section's Annual Meeting program on January 25 focused on two extremely important ethical areas: government investigations of corporate wrongdoing and differences between federal and state court practice. Section Vice-Chair Carrie H. Cohen, Chief of the Public Integrity Unit in the Office of Attorney General Eliot Spitzer, organized and chaired the program.

The first panel was entitled "Ethical Issues That Arise in Government Investigations of Alleged Corporate Wrongdoing" and was moderated by Anthony J. Harwood, of Labaton Sucharow & Rudoff LLP and Co-Chair of the Section's Ethics and Professionalism Committee. The panel used a hypothetical fact pattern to address the myriad of ethical issues that can arise while representing a corporation in connection with a government investigation. The hypothetical was developed by panelist Ronald C. Minkoff, of Frankfurt Kurnit Klein & Selz, P.C., and Robert J. Anello, of Morvillo, Abramowitz, Grand, Iason & Silberberg, P.C., and was the perfect vehicle to illustrate the various ethical dilemmas practitioners often face in representing their clients before government entities. The panelists, who reflected a variety of backgrounds, engaged in a lively and informative discussion. The panelists included Pierre M. Gentin, Managing Director and Head of Litigation for Credit Suisse First Boston and formerly an Assistant United States Attorney for the Southern District of New York; Howard E. Heiss, a partner at O'Melveny & Myers LLP, where he is a member of the Global Enforcement & Criminal Defense Practice; Ronald C. Minkoff, one of the leading practitioners in the field of attorney ethics and professional responsibility, who is active in the State Bar's Committee on Standards of Attorney Conduct and who serves as an Adjunct Professor of Professional Responsibility at Brooklyn Law School; Jodie Misher Peiken, a partner at Morvillo, Abramowitz, Grand, Iason & Silberberg, P.C.; and Shirah Neiman, Chief Counsel to the United States Attorney for the Southern District of New York.

The second panel was chaired by James M. Wicks, a partner at Farrell Fritz, P.C., and was entitled "Ethical Issues in Federal and State Court Litigation." The Section was fortunate to have as a moderator of this panel Professor Patrick M. Connors, who is an Associate Professor of Law at Albany Law School, where he teaches New York Practice, Legal Ethics, a seminar on Professional Responsibility, and Introduction to Civil Procedure. Professor Connors also is the author of the McKinney's Practice Commentaries for the New York Lawyer's Code of Professional Responsibility and is a frequent lecturer and writer on ethical issues. Professor Connors engaged the panel in a lively discussion that compared and contrasted the treatment of ethical issues by the federal and state courts. The Section was honored to have two sitting judges on the panel, the Honorable Denny Chin, United States District Judge, Southern District of New York, and the Honorable Bernard J. Fried, Justice of the Supreme Court, New York County, currently sitting in the Commercial Division. The other two panelists, both experts in the area of professional responsibility and ethics, were Richard Rifkin, Deputy Attorney General, State Counsel Division, Office of Attorney General Eliot Spitzer, and formerly Executive Director of the State Ethics Commission; and Deborah A. Scalise, Of Counsel to Garneau, LLP, who focuses her practice on representing attorneys and other professionals in ethical matters and who formerly served as the Deputy Chief Counsel to the Departmental Disciplinary Committee for the First Judicial Department.

Attendance at the program was beyond capacity, and the program was extremely well received by the audience. The State Bar Association's daily newspaper at the Annual Meeting featured the program. The Section is grateful to the participants on our morning panels for making our Annual Meeting such a resounding success.



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SCENES FROM THE
COMMERCIAL AND FEDERAL LITIGATION SECTION
ANNUAL MEETING
 JANUARY 24, 2006



Chief Judge Kaye with Stephen Younger, Chair; Lesley Rosenthal, Chair-Elect; Carrie Cohen, Vice-Chair; Vince Syracuse, Treasurer



Peter Brown, Vice-Chair-Elect, and Robert Haig, Former Section Chair



Stephen Younger, Carrie Cohen, Chief Judge Kaye, and the Honorees of the Commercial Division



Section Chair Stephen Younger



"Ethical Issues in Federal and State Court Litigation" moderator Professor Patrick M. Connors, Albany Law School; and panelists James M. Wicks, Farrell Fritz, P.C.; Richard Rifkin, Deputy Attorney General, Office of the Attorney General, New York State; and the Honorable Denny Chin, United States District Judge, Southern District of New York



"Ethical Issues that Arise in Government Investigations of Alleged Corporate Wrongdoing" panelists Shirah Neiman, U.S. Attorney's Office, Southern District of New York; Pierre M. Gentin, Credit Swiss First Boston; and Howard Heiss, O'Melveny & Myers LLP

CPLR Amendments 2005 Legislative Session¹ (Chapters 1-770)

CPLR §	Chapter (§)	Change	Eff. Date
304	504	Extends to Erie, Niagara, Broome, Essex, Onondaga, & Sullivan counties experimental program for filing of papers in certain cases by electronic means; extends expiration date of program to 9/1/09	8/16/05
1101(d), (f)	56 (Part D, 18)	Extends expiration of amendments' provisions relating to inmates until 9/1/07	4/1/05
1101(e)	3 (Part A, 64)	Adds attorney certification in family court cases	12/21/05
1602(13) [new]	394(12)	Adds exemption for certain persons convicted of violating new laws relating to manufacture of methamphetamine	10/1/05
2103(b)(5), (7)	504	Extends to Erie, Niagara, Broome, Essex, Onondaga, & Sullivan counties experimental program for filing of papers in certain cases by electronic means; extends expiration date of program to 9/1/09	8/16/05
3211(e)	616	Eliminates requirements for motions for leave to replead	1/1/06 ²
4518(a)	741(1)	Corrects cross-reference to State Technology Law	10/18/05
5206(a), (d), (e)	623	Increases homestead exemption to \$50,000	8/30/05
5521(b)	3 (Part A, 65)	Eliminates the necessity of a motion for preferences for appeals in certain family court cases and certain cases involving guardianship or custody of children	12/21/05
6515	387(1)	Changes action "to foreclosure a mortgage" to "foreclosure action" as defined in CPLR 6516(b)	8/2/05
6516 [new]	387(2)	Provides for successive notices of pendency	8/2/05
7502(c)	703	Extends provisions for provisional remedies to international commercial arbitrations held in New York and provides for expiration of order (and attorney's fees) if an arbitration is not commenced within 30 days	10/4/05
8023	457(6)	Repeals section 8023 (replaced by amendment to Jud. Law § 212(2)(j) authorizing payment of court fees, including administrative fee, by credit card)	8/9/05 (expires 8/9/10)

Notes: (1) Sections 400, 409, and 411 of the NYC Civil Court Act, Uniform District Court Act, and Uniform City Court Act have been amended, and a new section 412 added, to require commencement of an action or special proceeding by filing rather than by service. 2005 N.Y. Laws ch. 452, effective 9/8/05. (2) A new section 399-cc of the Gen. Bus. Law has been added to impose responsibility for payment of fees for stenographic services and transcripts upon the attorney who orders them. 2005 N.Y. Laws ch. 678, effective 11/15/05.

Endnote

1. At the time of publication, no CPLR amendments had been enacted in the 2006 legislative session.
2. Applies only to actions and proceedings commenced on or after effective date.

2006 Amendments to the Uniform Rules for Supreme and County Courts, Rules Governing Appeals, and Certain Other Rules of Interest to Civil Litigators

22 N.Y.C.R.R. §	Court	Subject (Change)
202.8(h)	Sup./County	Requires counsel for movant to alert court by letter when a motion is not decided within 60 days from later of final submission or oral argument
202.70	Sup.	Adopts statewide rules for the Commercial Division
730.2	A.T., 2d Dep't	Establishes a Civil Appeals Management Program for the appellate terms in the Second Department

Note that the court rules published on the Office of Court Administration's website include up-to-date amendments to those rules: <http://www.nycourts.gov/rules/trialcourts/index.shtml>.

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Notes of the Section's Executive Committee Meetings

November 16, 2005

Guest Speaker A. Vincent Buzard, President of the New York State Bar Association, discussed the priorities of the State Bar and the contributions of the Section.

It was reported that the Section's report on the Lawsuit Abuse Reduction Act had been adopted by the House of Delegates and would be implemented by the State Bar.

The Executive Committee approved the Federal Procedure Committee's revised Rule 45 Report.

The Executive Committee discussed whether the Section should endorse a proposed amendment to CPLR 3212(a) that would restore the court's discretion to consider all relevant factors in determining whether to permit belated summary judgment motions and decided that the CPLR Committee should revisit the issue.



December 15, 2005

Guest speaker Hon. Alvin K. Hellerstein, United States District Judge for the Southern District of New York, discussed the World Trade Center litigation.

The Executive Committee approved a Joint Report on the New York Consensus Draft RUAA. The Executive Committee also approved the CPLR Committee's revised Memorandum in Support of Amendment to CPLR 3212(a), which proposes that an order granting or denying leave to make a summary judgment motion after the deadline for making such a motion has expired shall not be an appealable paper for purposes of CPLR 5512 or for any other purpose.



REQUEST FOR ARTICLES

If you have written an article, or have an idea for one, please contact *Commercial and Federal Litigation Section Newsletter* Editor:

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Articles should be submitted by e-mail or on a 3½" floppy disk, preferably in Microsoft Word or WordPerfect, along with a printed original and biographical information.

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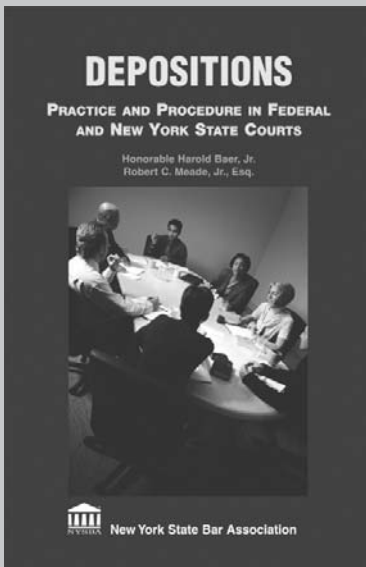
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Raymond J. Dowd, Esq.
Dowd & Marotta LLC
New York City

"This book is an invaluable resource for any attorney starting out on his or her own, or the seasoned practitioner, who will find it an enormously useful tool as a quick refresher or guide through the State and federal discovery processes."

Lauren J. Wachtler, Esq.
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New York State Supreme Court

The authors, a United States District Judge for the Southern District of New York and the chief attorney clerk and director for the New York State Supreme Court, Commercial Division, New York County, incorporate their wealth of knowledge and experience into valuable practical guidance for conducting depositions.

This publication details deposition rules and procedures and highlights the differences between federal and state practice in New York. Topics include pre-trial discovery schedules, rules regarding number and recording method of depositions, appropriate and inappropriate conduct at depositions, objections, motions for protective orders, orders to compel and sanctions and others.

The book also contains over 40 forms used in federal and state deposition practice, which makes this a very practical and informative publication.

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**COMMERCIAL & FEDERAL LITIGATION SECTION
SPRING MEETING AT LINCOLN CENTER, MAY 5 – 7, 2006
SAVE THE DATE!**

Photograph: David Lamb



The Commercial and Federal Litigation Section will hold its Spring 2006 meeting at Lincoln Center for the Performing Arts in New York City over the weekend May 5-7, 2006. The theme of the meeting will be The Art of Commercial Litigation, with interactive programs on advanced brief writing and oral advocacy in commercial cases, a legal ethics program entitled “Popcorn and Ethics,” and a program on current bankruptcy law issues for commercial litigators.

The Section’s annual Robert L. Haig Award for distinguished public service will be presented to

John M. Walker, Jr., Chief Judge of the United States Court of Appeals for the Second Circuit, at a gala dinner on Saturday, May 6, 2006. The Section will also inaugurate awards for service to the Section and for excellence in commercial brief-writing.

The meeting will be held at the exquisite facilities of Lincoln Center for the Performing Arts, the home of the world’s finest performing arts programs and companies. Group discount tickets for weekend performances will be available to conference participants and their families.

The Section gratefully acknowledges the support of meeting sponsors GREYHAWK North America, LLC and JAMS.

**May 5 - 7, 2006
Lincoln Center for the Performing Arts
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