

**SUPREME COURT, MONROE COUNTY  
COMMERCIAL DIVISION**

**Hon. Thomas A. Stander  
Judge, Commercial Division  
Supreme Court, Monroe County**

**November 7, 1996**

On November 6, 1995, Chief Judge Judith S. Kaye opened the doors of the Commercial Division of the Monroe County Supreme Court to the public. Under the direction of Judge Thomas A. Stander, the Monroe County Commercial Division has proven beneficial for the business community and its residents. Over one half of the commercial matters assigned to the Commercial Division have been resolved within the first 90 days of the filing of the Request for Judicial Intervention. Moreover, all commercial matters have trial dates scheduled within 30 days of the filing of the Note of Issue.

The success of the Commercial Division is attributable to several factors.<sup>1</sup> All commercial matters assigned to this court are subject to strong case management. Thus, instead of allowing the lawyers to set the pace for litigation of the case (and thereby too often languishing on the court's calendar), the Commercial Division Judge is responsible for actively moving the case toward resolution or trial. All commercial cases have a scheduled preliminary conference within two weeks of the filing of a Request for Judicial Intervention or the determination of an initial motion. At the conference, the Judge issues a discovery schedule in which the parties agree to provide specific items of disclosure to their adversary by a certain date. All discovery scheduling orders are prepared at the preliminary conference and approved by the Commercial Division Judge at the same conference.

The Judge actively involves all parties and relevant nonparties in moving their cases toward resolution or trial. Under the court's "open door policy," the Judge conferences cases with both litigants and nonlitigants, the latter whose participation may be critical to a complete resolution of the case. This policy has proven effective in disposing of commercial matters that are on the court's calendars *as well as* disposing of matters in which a Request for Judicial Intervention has not yet been filed.

Commercial cases requiring ex parte relief apply to the Commercial Division Judge for relief, who has extended the open door policy to such requests.

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<sup>1</sup>All cases assigned to the Commercial Division in Monroe County have met specified criteria. In general, the Division handles cases involving a commercial dispute of an amount more than \$50,000, exclusive of punitive damages and costs. Typical matters appropriate for Commercial Division disposition include breach of contract claims, corporate and partnership dissolutions, enforcement of employment agreements, declaratory relief actions, shareholder derivative actions, construction contracts and financing disputes, and commercial class actions.

The use of alternative dispute resolution has also served to expedite case resolution of commercial matters. The Commercial Division Judge recommends arbitration or mediation for those cases the Judge deems most amenable to ADR. If the parties agree to ADR, the Judge selects the neutral, establishes the rules of engagement and imposes time limits for the ADR process. Due to the success of the use of ADR in the disposition of commercial matters, court-mandated alternative dispute resolution will be implemented in the near future. The Monroe County Commercial Division will also pilot a court-referred ADR Program in early 1997. A panel of commercial mediators meeting the court's criteria for neutrals is now being compiled.

Two initiatives to improve and streamline operations have recently been implemented. The first involves the manner in which cases are assigned to the Division. Under the old method, a matter with a Request for Judicial Intervention labeling the case as a "commercial" matter was sent to the Judge's staff. The Judge's staff would review the complaint and determine whether transfer to the Division was appropriate. This process became cumbersome and resulted in unnecessary delays. Under the new method, the Clerk of the Monroe County Supreme Court reviews all incoming cases marked as "commercial" (along with the summons and any additional pleadings) to determine whether the case is appropriate for Commercial Division treatment. The implementation of this initiative has served to reduce the amount of time a commercial case attains final disposition, without utilization of additional resources. The second initiative involves the issuance by the Commercial Division Judge of substantive written decisions on major areas of commercial law. The decisions are then filed by the court and are accessible to the public. This initiative, which has received wide support from the commercial bar in Monroe County, will establish a much-needed body of commercial law in New York state and facilitate disposition of commercial matters in the future.

The Commercial Division in Monroe County has had a successful and exciting first year. The pooling of judicial resources and expertise has greatly facilitated disposition of commercial matters efficiently and expeditiously. The continued input and support of the Monroe County Bar, commercial litigators and the business community will be critical as the Division continues to streamline its operations to better serve the needs of the business community and all New Yorkers.

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