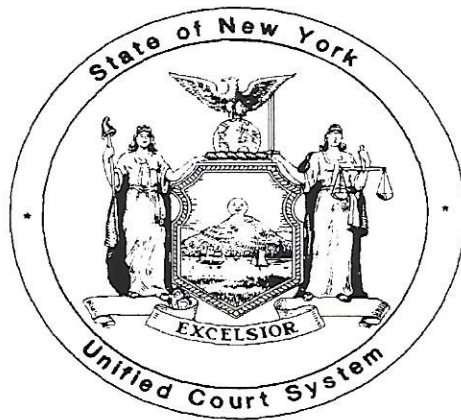


SUPREME COURT, CIVIL BRANCH
NEW YORK COUNTY
COMMERCIAL DIVISION



REPORT OF THE ADMINISTRATIVE JUDGE
ON THE OCCASION OF THE
FIFTH ANNIVERSARY OF THE
ESTABLISHMENT OF THE COMMERCIAL DIVISION

HON. STEPHEN G. CRANE
ADMINISTRATIVE JUDGE

NOVEMBER 8, 2000

JUSTICES OF THE COMMERCIAL DIVISION

HONORABLE HERMAN CAHN
HONORABLE STEPHEN G. CRANE*
HONORABLE BARRY A. COZIER
HONORABLE HELEN E. FREEDMAN
HONORABLE IRA GAMMERMAN
HONORABLE CHARLES E. RAMOS
HONORABLE BEATRICE SHAINSWIT

FORMER JUSTICES OF THE DIVISION

THE LATE HONORABLE LEWIS R. FRIEDMAN
HONORABLE WALTER M. SCHACKMAN (RET.)

FORMER JUSTICE OF COMMERCIAL PART 14

HONORABLE MYRIAM J. ALTMAN,
ASSOCIATE JUSTICE, APPELLATE DIVISION,
SECOND DEPARTMENT

* Administrative Judge Crane was assigned full time to the Division prior to assuming his current duties. He continues to receive a small percentage of Division assignments.

INTRODUCTION

This report is submitted on the occasion of the fifth anniversary of the establishment of the Commercial Division. We have reached a significant milestone. This is an appropriate time for reflection on where we have come from and where we need to go in the years ahead. This is also a suitable time to say thanks to so many in the court to whom we stand indebted.

Filing by Electronic Means

Our court as part of the Unified Court System has participated for some time in the development of the electronic filing system which is being formally inaugurated in our County at this anniversary celebration. In June we hosted an introduction to the system for interested members of the Bar. Recently, with the assistance of the Department of Technology, our staff has been studying the system in great detail in preparation for the formal commencement of this project. Working with Bar associations, the staff of our court will be conducting training sessions for members of the Bar interested in using this system. All managing clerks, attorneys, and managing attorneys who practice in the Division are urged to take training. The courses will be brief. Those who attend will find that the e-filing system is simple and easy to use. Our staff will also respond to questions about the system on an ongoing basis.

Interested persons can test e-filing by logging on to the court's web site (at <http://www.courts.state.ny.us>-- click on "E-Courts"). A User's Manual is posted on the site and explains its operations in detail.

For information about future training courses and other aspects of electronic filing in New York County, please call the Clerk-in-Charge of the Commercial Division Support Office, Pablo Rivera, or William Dietz of that office at 212-748-5303.

Courtroom 2000 for the New Millennium

During this past year, the Division was able, with the cooperation of participating vendors and the assistance of the Court Reporters Association, to obtain upgraded equipment for Courtroom 2000 for the New Millennium, the

Division's state-of-the-art courtroom. Cases continue to be tried there to the great satisfaction of the Bar and clients. The Division, in keeping with its role as a laboratory for the court, has made this Courtroom available for non-Division proceedings that benefit from its technology. An unusually lengthy, document-heavy trial was conducted there in late 1999-early 2000 and a complex criminal case is underway there at the moment. The Courtroom will soon be replicated in many additional locations thanks to the foresight of Chief Judge Kaye and Chief Administrative Judge Lippman and the contributions of this court's chief of courtroom technology, Brian DiGiovanna.

Visitors to Our Court

We continue to receive visits from many persons from other states and countries eager to see the Commercial Division and Courtroom 2000 for the New Millennium. Court Reporter Brian DiGiovanna, who was instrumental in the establishment of the Courtroom, continues his able and dedicated work explaining the operations and features of the Courtroom to countless visitors. The Division expresses its gratitude to him.

The Website

The Division continues to make regular use of its home page on the Internet website of the Unified Court System (<http://www.courts.state.ny.us>). Information on the court is published there and continuously updated. We are constantly improving this site.

The Commercial Division Law Report

The Division will soon complete its third year publishing the *Commercial Division Law Report*. This is a newsletter published five times per year describing the leading opinions issued by Justices of the Commercial Division. Almost all of the Division Justices in the state participate in this process. The newsletter is available in hard copy form, on the Division's home page, and on the home page of the Commercial and Federal Litigation Section of the New York State Bar Association (at www.nysba.org/sections/comfed). The opinions summarized there are available in full on both websites. Members of the

Commercial and Federal Litigation Section can sign up to receive copies of the newsletter automatically by e-mail by contacting the Section at the above address.

Decisions On-Line

Earlier this year, the Division began to post on its web site all decisions and selected long form orders issued by Division Justices in this County. These decisions contain the County Clerk's entry stamp. They are made available on the site very quickly after they are delivered to the Commercial Division Support Office and entered into the court's computer system. Typically, decisions arrive in the Office and are recorded in the computer in the afternoon of one day and are posted on the web by about noon of the following day. An attorney no longer has to make a trip to the courthouse or send a messenger in order to obtain a copy of a recent decision. Indeed, in the past two trips were sometimes necessary. The attorney now need only print out the decision using the office personal computer to be in a position to serve a notice of entry. The database of decisions can be searched using not only case names and index numbers but also key words. The following are some comments received from users of this system:

"The site is wonderful."

"Just a note to let you know how really impressed I am with the new system.... It's no exaggeration to say that making the orders and decisions available on-line is an enormous leap forward for your court and a tremendous help to those of us who work with the court on a daily basis. This is really great stuff!"

"Thank you and Judge Crane for your new service. It is a wonderful idea for saving time and the client's money. The print outs look good."

"I have viewed the new website, and am extremely surprised to find how easy it is to locate decisions and orders, with dates of entry in the New York County Clerk's Office, at the site. ... The photocopies of decisions/orders we make in the courthouse are not nearly as legible as when they are printed on our office printers, from the website."

"[L]et me say I think [the website] is really great and a real benefit to the bar."

"I just wanted to drop you a line to let you know how much I like the new

Commercial Division [site].... I like this function very much. I tried it this afternoon, and found it to work fine Anything that will allow me to obtain decisions quickly makes my job ... much easier. This will also eliminate 'lost decisions' both at your office and at ours! And save clients costs so that I don't have to send my clerks down to search for a decision."

"I would like to thank you for your hard work in getting the site up and running. In today's fast paced world it is not a luxury but a necessity to get information as quickly as possible. From a client's point of view, I appreciate the money I save in legal fees and from a manager's point of view, I appreciate the time my staff does not spend at court looking for decisions."

I am pleased to acknowledge with heartfelt gratitude the tremendous cooperation the court has received on this project from Honorable Norman Goodman, the County Clerk of New York County, and his deputy, James Rossetti, Esq. This is but an example of the superb partnership that exists between the court and Mr. Goodman. The people of the County are the beneficiaries.

Posting decisions on-line would not have happened had it not been for the work of Bill Dietz of the Commercial Division Support Office, under the direction of the Clerk-in-Charge, Pablo Rivera, and Reginald Bouchereau of the Management Information Systems Department, under the direction of the head of the Department, Jack Moy. Mr. Dietz identified a piece of hardware made available for other purposes as being suitable for use for this purpose and, at his own initiative, experimented with using that equipment to build a prototype of a database for a decisions on-line site. Mr. Bouchereau designed the site and made sure that it functioned properly on the web. Our sincere thanks to them all!

We are grateful also to the Unified Court System Department of Technology and its director, Noel Adler, Esq., for allowing us to use its server and for assisting us in the development stages of the project.

Guidelines and Rules

The Guidelines for the Assignment of Cases to the Commercial Division, issued in December 1998, have, we believe, functioned in a reasonably satisfactory fashion. They respond to the requirements of the Bar for greater

clarity in the assignment of cases. There have been, so far as we are aware, no complaints about the new system. Similarly, the Rules of the Justices of the Commercial Division appear to have functioned reasonably well. Nevertheless, we continue to study the operation of the Guidelines and Rules and will make revisions as required.

ADR

The Division has operated its Alternative Dispute Resolution Program since very shortly after the inception of the Division. This program provides for mandatory ADR of the parties' choice using a neutral selected from a court roster. The Program, an innovation in our court and a pilot program in the Unified Court System's effort to expand utilization of ADR, has been productive and has met with an encouraging response from the Bar.

In 1999, the Division opened the Program to commercial cases and certain real estate matters pending in non-Division Parts. It is hoped that there will be significant growth in this area in the future.

The Division has issued a Code of Ethics for neutrals. The code is in two parts, one for mediators and the other for arbitrators and neutral evaluators.

The Division sponsored its fourth training program for its ADR neutrals in February of this year. This program was an intensive seminar in mediation that ran for three days. Those who completed the course received credit for the 24 hours of training needed to satisfy the Division's training standards. Participants were asked to rate the course at its conclusion. The response was very substantial and overwhelmingly favorable. The Division hopes to offer the program again in the near future. The instruction was provided by Simeon Baum, Esq. and Stephen A. Hochman, Esq., prominent mediators and frequent instructors in ADR courses. Both are members of the Division's Roster and of our ADR Advisory Group. Various experienced mediators helped as role play coaches. The workshop was presented with the generous cooperation of the New York County Lawyers' Association. We thank all for their generous and capable assistance in our training effort.

Cooperation with the Bar

The Division over this past year has continued to consult closely with the Commercial Bar. The Bar has been exceptionally interested and cooperative. This relationship has been very helpful to the Division in introducing and pursuing what it hopes will be sound and useful initiatives. We again wish to express our gratitude for the contributions of the Chief Judge's Commercial Courts Task Force (Hon. E. Leo Milonas and Robert L. Haig, Esq., Co-Chairs), the Commercial and Federal Litigation Section of the State Bar Association, the Association of the Bar of the City of New York, its Council on Judicial Administration and its Committees on ADR and on State Courts of Superior Jurisdiction, the New York County Lawyers' Association and its Committees on ADR and on the Supreme Court, and the Managing Attorneys and Managing Clerks Association.

Acknowledging Our Debts

The Bar appears to appreciate the Commercial Division in our County and throughout the state and regards these past five years as a time of progress for commercial law in New York. The Justices who are and have been part of the Division during the past five years have been central to its success. We could not have achieved our accomplishments without their dedication, cooperation, knowledge, experience and skills. We are deeply grateful.

We also should not overlook the staff of the Justices and the staff of the Commercial Division Support Office listed hereafter and of our overburdened Law Department. Given the burdens on the Justices, especially from motion practice and case management responsibilities, the work of the Law Secretaries, Part Clerks and Court Attorneys in the Division is especially demanding. The Secretaries of the Justices have also played an important role. The Commercial Division Support Office is a key point of contact between the Division and many attorneys. The skill, knowledge and dedicated service of the clerks who work in that Office have greatly assisted us in our efforts to build the stature and reputation of the Division. And we should take special note of the efforts of the members of our Law Department, who spend many hours helping Division Justices on the difficult motions filed in the Division. The Bar does not see these attorneys at work and rarely has contact with them and so naturally may not appreciate all that they do. To all of these staff members, our deepest and most

sincere thanks for their many vital contributions over the past five years.

Hail and Farewell

We conclude this report by taking note of two departures. At the end of this year, the Division will lose the services of Justice Beatrice Shainswit. Justice Shainswit was present at the creation; that is, she is one of the Justices assigned to the forerunner of the Division in this state, the Commercial Parts that began work in January 1993. She has served in the Division ever since. Justice Shainswit has brought exceptional energy and dedication to the task of rendering justice in these cases, as she did for a wide variety of cases during a long, varied and distinguished career. She is and has always been smart, hard-working, efficient and knowledgeable. With her retirement, the Division loses a stalwart servant of the people and will be much the poorer for her absence. However, her legacy will remain a permanent part of the history of the Division. The Justices and staff of the Division, and indeed our entire court, salute her. We wish her fulfillment, travel, good health, relaxation and enjoyment for years to come.

We wish the same for William Glasheen of the staff of the Commercial Division Support Office, who is also retiring after long service. He has been a most dedicated and faithful colleague during the past five years. He too will be missed.

November 8, 2000

HON. STEPHEN G. CRANE
ADMINISTRATIVE JUDGE

STAFF OF THE COMMERCIAL DIVISION PARTS

Part 3 (Justice Barry A. Cozier)
Tanya Kennedy, Esq., Law Secretary
Cliff Wright, Part Clerk

Part 10 (Justice Beatrice Shainswit)
Kathy Kass, Esq., Law Secretary
Margaret Kilfoyle, Part Clerk

Part 27 (Justice Ira Gammerman)
Patricia Giles, Esq., Law Secretary
Effie Vogel, Part Clerk

Part 39 (Justice Helen E. Freedman)
David S. Cohen, Esq., Law Secretary
Thomas Schiel, Part Clerk

Part 49 (Justice Herman Cahn)
Roy Bromberg, Esq., Law Secretary
Marcia Wilson, Part Clerk

Part 53 (Justice Charles E. Ramos)
Tracee Davis, Esq., Law Secretary
Michael Grillo, Part Clerk

Part 56 (Justice Stephen G. Crane)
Kellie George, Esq., Law Secretary
Yasmin Beydoun, Part Clerk

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William Dietz

William Glasheen

Jennifer Antonelli, ADR Coordinator