

John Caher: Welcome to Amici, news and insight from the New York Judiciary and Unified Court System. Today we are happy to share with you the audio portion of a video produced for the Historical Society of the New York Courts on the Commercial Division of State Supreme Court. Along the way, you will hear from Chief Judge Jonathan Lippman, former Chief Judge Judith Kaye, former Chief Administrative Judge E. Leo Milonas, several other judges and attorneys as they discuss the roots and progress of the court over the years.

The video itself is available on the Historical Society's webpage.

Henry Miller: Four hundred years ago, the Dutch set up their first trading posts on the Hudson River trading beaver pelts in what is now present day Albany. This was quickly followed by a second settlement on the tip of Manhattan and so began the commercial life of New York. As the economy grew, so too did the court system. Quickly establishing itself as a reliable place for New Yorkers to resolve their commercial disputes. Today, New York stands at the epicenter of global commerce and at the forefront of commercial litigation thanks to the formation, in 1995, of the courts Commercial Division.

Kathryn Wylde: New York City, because we are the headquarter city for the global financial system, for the media system, for fashion and retail, we are headquarters for so many world industries, much of the most complicated litigation in the world flows into our court system. As a result, we really have great expectations of how that will be handled.

Hon. Judith S. Kaye: The reluctance of major companies to come into the state courts, related to the utterly overwhelming drowning dockets.

Hon. E. Lee Milonas: Well, it was just a confluence of perfect events occurring at the same time. We had Governor Cuomo, at the time, who wanted to institute a commercial court, but what he had in mind, I believe, was a court of equity like Delaware. Which is very hard to do because you need a constitutional amendment or you need legislation. It was difficult to do. It was expensive.

Elizabeth D. Moore: I was counselor to the Governor from 1991 to 1994 when the process of creating the Commercial Courts was becoming really important. I think the Governor put it in his State of the State and we worked with the Judiciary to try to help make it happen.

Chief Judge Kaye: It's the fact that it began with an idea that preceded me, Judge Wachtler, and the four commercial parts and the four Commercial Judges. I've seen an idea grow from conception through all the early childhood traumas, through maturity. That's what makes me feel so proud — the very prudent and important growth of this great idea. From its very first breaths, the Commercial Division has been a Bench/Bar cooperative.

Robert Haig: The original Commercial Courts Task Force was an operational group. It wasn't a theoretical or academic group.

Mark Alcott: I do have to say, that once Chief Judge Kaye embraced this and said, "We're going forward." I said, "Well that's great. You mean you're going to take our report and our idea and you're really going to study it in detail?" She said, "I'm not going to study it. I'm going to implement it."

Mark Zauderer: One of the things that it's easy to forget is that we were really in uncharted territory in many ways. I'll give you some examples. An initial question was, "What's the jurisdictional amount for this Commercial Division? How much did your case have to be worth to get your case there?"

Judge Milonas: We had to define what is a commercial case for the Commercial Division. We worked on that. I remember. It was that easy.

Chief Judge Kaye: And we're still working on it.

Judge Milonas: And we're still working on it.

Mr. Haig: But the wonderful thing is that we didn't spend five years debating these things.

Mr. Zauderer: That's right.

Mr. Haig: Both of you said, "Let's do it and then we'll refine it as we go along."

Mr. Zauderer: Exactly.

Hon. Ira Gammerman: We started with Judge Shainswit, Judge Myriam Altman, Herman Cahn and myself. We were the first four.

Hon. Herman Cahn: Our Administrative Judge had been requested to call us in and to talk to us about it. He was requested to urge us to volunteer to become Commercial Division Judges. In my group, I was the only one. I put up my

hand very quickly and said, "Yes, I'm volunteering. Stanley, I want the job."

Judge Gammerman: Well, I never had rules. The other Commercial Judges, as time went on, decided they needed rules. They had forms. I never had any paper at all.

Hon. Charles E. Ramos: Ira's rules were no rules. Which we all pretty much adopted as our rule because it seemed to make a lot of sense. It gave us a great deal of flexibility and discretion.

Judge Gammerman: What rules?

Hon. Leonard B. Austin: At that time there was a discussion with regard to the rules of the different judges and how they all meshed together. We came back and forth and came up with a pretty damn good end product.

Hon. Deborah Karalunas: When I was a practicing lawyer, I was on a committee that was trying to get a Commercial Division established in upstate New York because we wanted to have a court that had the expertise in commercial litigation.

Hon. Carolyn Demarest: It's grown and changed over the years, of course, as has New York Counties, of course, I'm sure.

Judge Ramos: It was Kings County and then very quickly on Westchester, Albany.

David Boies: Twenty years ago, we thought the cases that we had then were big cases. And, they were for 20 years ago. But, the cases today, both in size and complexity, dwarf what we thought were the big cases of 1995.

Judge Ramos: Keep in mind that when I became an attorney we used carbon paper. A copying machine was a Xerox the size of a refrigerator. Things have changed.

Hon. Timothy S. Driscoll: When you think about the Commercial Division of 20 years ago, when Judge Ramos was the Commercial Division, if you had said to Judge Ramos, "iPhone," Judge Ramos would have said, "That's bad syntax counsel." Now if you say iPhone, it's a storage device. It's a calendar. It's a source of electronic discovery. There's lots of litigation involving iPhone, iPads and any other kind of technology.

Hon. Sherry Klein Heitler: I think that the business community has been affected by the changes that we are making, in that they are bringing more and more cases to our courthouse. You know there are so many avenues that the commercial litigator may choose to walk down. But, from what I am

seeing, with regard to the numbers, I think that those walks are now going up our beautiful stairs at 60 Centre Street.

- Ms. Wylde: The strength of our economy is very much driven by attracting business investment here, by maintaining business, encouraging job growth here. All of that relates back to having a sense of a great legal system, a system of justice that can help manage the very complicated economy that we have.
- John Hartje: What it does is, it fosters kind of a confidence in a business and a company. That you're going to have a court that is intimately involved with business matters. It's intelligent about business matters. Its justices are among the best in the court.
- Ms. Moore: It really is important to the business community to have a legal system that it can rely on, that has expertise, that is fair, that is knowledgeable, that understands that delay is costly. I think the Commercial Division really addresses all of those issues.
- Mr. Boies: We think for a practitioner, in terms of the Commercial Division, is the ability to deal in an environment in which you are able to make your case to somebody who's going to listen, understand it, and handle it efficiently and reliably.
- Mr. Zauderer: The Commercial Division has processed cases quickly. It has provided a forum for efficient resolution of disputes. The business community has gotten the message, so to speak.
- Judge Karalunas: You don't have the clients, the businesses wasting their time in litigation when really what they want to be focusing on is their business.
- Hon. Barry Cozier: You have many more justices of the Supreme Court, both in and outside the Commercial Division, who are now equipped with the expertise, really, to hear and preside over complex commercial transactions.
- Hon. Helen Freedman: The judges develop an expertise in certain issues. You see certain issues over and over again. You know you don't have to start from scratch.
- Judge Austin: You get a professional court for professional concerns. I think that works very well.
- Judge Cahn: I think it's great. I think it's the greatest thing to happen in the New York courts.

Judge Gammerman: I think it's the best job in the court. I really think the cases and the lawyers are the best. There's no better job.

Judge Driscoll I can't wait to get to work every day. The intellectual challenge of the cases that we work on, the quality of the lawyers, the importance of the disputes to the business community and to ensuring that New York State remains the commercial capital of the world are all great reasons to get up in the morning and go to work.

Speaker 22: Now if you had to find one word to describe life in the Commercial Division, what might that be?

Judge Kornreich: Paper, lots of paper.

Hon.Barbara Kapnick: Busy.

Hon.Eileen Bransten: Fantastic.

Hon. O. Peter Sherwood: Wonderful experience. Two words.

Hon. Marguerite Grays: Challenging.

Hon. Orin Kitzes: Money.

Hon. Melvin Schwietzer: Exciting.

Hon. Elizabeth Emerson: Exhilarating.

Judge Cahn: A Judge can't summarize in one word. Sorry. I can't do it.

Judge Klein Heitler: Absolutely fabulous. And, I recognize that's two words.

Judge Ramos: Great lawyers, great cases, an administration that really supports us, terrific staff, great people in chambers, great people in the court room.

Judge Cozier: It continues to present many challenges.

Judge Gammerman: I would say challenging. I would say it's challenging for the judge, but very satisfying.

Judge Karalunas: Faster, smarter, cheaper litigation.

Judge Freedman: Fascinating, enlightening.

Mr. Boies: Reliable justice.

Mr. Alcott: Excellence and innovation and you don't need much more than that.

Chief Judge Kaye: Chief Judge Lippman has been ardent about that message, that we don't close the doors and say, "We have a great Commercial Division and now let's go on to something else."

Hon. Jonathan Lippman: I think the Commercial Division of the Supreme Court is critical for the economic health and well-being of New York City and New York State. We have to not rest on our laurels, but to really look to the future and understand that the competition is fierce. As wonderful as the Commercial Division has been, I think we're going to have to ensure that we follow up on the wonderful reports we've had, the recent report that we had from Judge Kaye and Marty Lipton's group that had such terrific recommendations. New York is where we are because of who we are. I think the Commercial Division is competitive with any place in the world. It's good for business. It's good for our people. It's good for our economy. It's good for the courts. It's good for our society. I think the Commercial Division has, again, an unlimited future and it's bright and shiny and as New York deserves.

Mr. Caher: Thank you listening to this edition of Amici. If you have a suggestion for a topic on Amici, call John Caher at 518-453-8669, or send him a note at jcaher@nycourts.gov. In the meantime, stay tuned.