

**Colloquium on the Future of Commercial Litigation in New York:
Developing a Cost-Efficient Judicial Process for the Electronic Age**

Sponsored by the New York State Judicial Institute

at

The New York City Bar

42 West 44th Street

New York, NY

December 1, 2008

9:15 a.m. - 9:30 a.m.

Welcome

Hon. Judith S. Kaye, Chief Judge

9:30 a.m. - 10:00 a.m.

Morning Keynote: E-Discovery in Commercial Litigation: Finding a Way Out of Purgatory

Kenneth J. Withers, Director of Judicial Education and Content, The Sedona Conference

10:00 a.m. - 11:00 a.m.

E-Discovery Panel

The panel, representing the bench, the bar and academia, will discuss the management, preservation and production of electronically stored information (ESI) in commercial cases. Issues to be explored include whether the volume and cost of e-discovery is driving litigants out of the courts; how e-discovery costs should be allocated; whether the adversarial process should continue to govern e-discovery; whether New York should consider amendments to the CPLR (or other rules) to address ESI; and the effect of corporate globalization on retrieval and production of ESI located outside the United States.

Moderator: Maura R. Grossman, Esq., Wachtell, Lipton, Rosen & Katz

Panelists: Thomas Y. Allman, Esq., Attorney and Consultant,
Former General Counsel of BASF Corporation
James M. Bergin, Esq., Morrison & Foerster LLP
Honorable John L. Carroll, Dean, Cumberland School of Law, Samford University
Honorable Elizabeth H. Emerson, New York Supreme Court, Commercial Division, Suffolk County

11:00 a.m. - 11:15 a.m.

Break

11:15 a.m. - 12:45 p.m.

E-Discovery Panel (continued)

12:45 p.m. - 1:45 p.m.

Lunch

1:45 p.m. - 2:10 p.m.

Afternoon Keynote

Honorable Stephen Crane, JAMS; Assoc. Justice (ret.), New York Supreme Court, Appellate Division, Second Department

2:10 p.m. - 2:45 p.m.

ADR Panel, Part I

In Part I, the panel will focus on a discussion of challenges to and concerns with the current use of ADR in commercial litigation.

Moderator: Dan Weitz, Esq., Coordinator, Unified Court System
Office of ADR Programs

Panelists: Simeon Baum, Esq., President, Resolve Mediation
Services, Inc.
Honorable Alan Scheinkman, New York Supreme Court,
9th Judicial District
Honorable Elizabeth S. Stong, United States Bankruptcy
Judge, Eastern District of New York
Stephen P. Younger, Esq., Patterson Belknap Webb &
Tyler LLP

2:45 p.m. - 3:00 p.m.

Break

3:00 p.m. - 4:40 p.m.

ADR Panel, Part II

The panel will discuss current and possible future improvements to the ADR system for commercial litigation in New York including Part 146 of the Rules of the Chief Administrative Judge and the revised Standards of Conduct for Mediators; the advantages and disadvantages of adopting a version of the Uniform Mediation Act; the nature and timing of referrals; and the use of ADR as a tool to resolve discovery disputes.

4:40 p.m.

Closing Remarks