



## HON. E. MICHAEL KAVANAGH

Associate Justice, Supreme Court of the State of New York, Appellate Division, First and Third Judicial Departments (Ret.)

After an illustrious legal career in public service as an Associate Justice of the Appellate Division and the Supreme Court, District Attorney and Prosecutor, Judge Kavanagh is applying his vast experience and knowledge to alternative dispute resolution by handling mediations and arbitrations for NAM throughout upstate New York and New York City.

Judge Kavanagh also serves as a neutral in Florida where he frequently hears cases. One such matter included a series of cases brought against a well-known cruise line by the employees and passengers. The employee grievances were submitted for binding arbitration based on their employment contract and were resolved to their satisfaction. The passenger cases involved a question of whether the accommodations and services agreed to by the parties for the cruise were in fact provided as set forth in the cruise agreement. This case was also settled to the satisfaction of all the parties.

Judge Kavanagh was appointed to the Appellate Division by the Governor of New York State in 2006. He served as an Associate Justice of the Appellate Division in the First Judicial Department (Manhattan) from 2006-2008. Thereafter, he served as an Associate Justice in the Third Judicial Department (Albany) until his retirement from the bench in December 2012. During his tenure as an Associate Justice, he authored numerous opinions involving significant legal issues raised during litigation generated from the State's Supreme, County, Family, and Surrogate Courts. Prior to his appointment to the Appellate Division, Judge Kavanagh spent eight years as a trial judge in the Supreme Court where he presided over complex civil litigation actions concerning personal injury, medical malpractice, negligence, Labor Law, products liability, administrative regulatory reform, tax certiorari, and contested matrimonial disputes. While on the Supreme Court bench, he ruled on civil matters in Ulster, Albany, Sullivan, Columbia, Greene, and New York Counties.

In 2002, Judge Kavanagh was appointed by the Chief Administrative Judge to the NYS Mass Tort Litigation Coordination Panel and in 2005, he was again appointed by the Chief Administrative Judge to the NYS Advisory Committee on Judicial Ethics, on which he served six years. He was a member of both the New York State Bar Association's committee that studied District Court jury trials and of the Unified Court System's Drug Court Advisory Committee. Before his appointment to the bench, he served as District Attorney of Ulster County from 1978-1998, a position to which he was elected six times, and as an Assistant District Attorney from 1970-1978.

According to the New York Judge Reviews, Judge Kavanagh was given high marks for his demeanor, fairness, and legal knowledge. Quoting from the Judge Reviews: "Judge Kavanagh has impressed interviewees with his strong settlement and negotiating skills" and "He's a very effective negotiator." Lawyers interviewed described Judge Kavanagh's legal knowledge as "excellent," "He's a very fair person," and "His fairness is outstanding". Judge Kavanagh received high praise for his trial management and settlement skills.

In 2013, Judge Kavanagh was retained as a legal consultant by the United States Agency for International Development (USAID) and was a panelist in a forum held in the Republic of Macedonia on appellate practice and alternative dispute resolution. More recently, he was appointed by the New York State's Chief Judge to the Statewide Commission on Attorney Discipline.

## AREAS of EXPERIENCE

- Administrative Regulatory Reform
- Business/Commercial
- Construction
- Employment
- Labor Law
- Matrimonial
- Medical Malpractice
- Negligence
- Personal Injury
- Premises Liability
- Product Liability
- Professional Liability
- Tax Certiorari

## REPRESENTATIVE MATTERS

- F & K Supply v Willowbrook Dev. Co. (2003): A contract dispute involving unpaid invoices in excess of One Million Dollars (\$1,000,000.00).
- Ulster Business Complex, LLC v Town of Ulster (2000): A challenge brought by a private developer to the Seventy-Seven Million Dollar (\$77,000,000.00) tax assessment on real property.
- PCK Dev. Co. v Assessor of the Town of Ulster (2004): A tax certiorari proceeding challenging the tax assessment placed on the Hudson Valley Mall by a local municipality.
- Aaron v Aaron (2003): Litigation that culminated in a finding that the contract at issue, which sought to convey valuable real estate, was unenforceable because it constituted an "agreement to agree."
- State of NY v Town of Hardenburgh (2002): A challenge by the State of New York to the tax assessed by a local municipality on twenty-five thousand acres of undeveloped real estate that comprised part of the Catskill Mountain Preserve.
- In the Matter of Northern Pines MHP, LLC, Respondents v. the Board of Assessment Review of the Town of Milton, 72 AD 3d 1314 (3rd Dept. 2010): Determination that the property owner's application brought pursuant to RPTL Article 7 concerning the fair market value of certain real estate was properly granted.
- Devine v Meili, 89 AD 3d 1255 (3rd Dept. 2011): Finding that the doctrine of caveat emptor applied to a real estate transaction.
- In the Matter of the Arbitration Between the Ulster County Sheriff's Employees Association, CWA Local 1105, Respondents and the Ulster County Sheriff's Department et.al., Appellants 100 AD 3d 1327 (3rd Dept. 2012): Affirmation of an award rendered by an arbitrator concluding that that personnel decision by a county authority was contrary to the State Civil Service Law and violated New York Constitution Article V Section 6.
- Robinson ex rel. Chapman v Bartlett, 95 AD 3d 1531 (3rd Dept. 2012): Affirmation of a lower court's decision denying landlord's Motion for Summary Judgment finding that a question of fact exists as to whether the child's exposure to lead-based paint while he resided in the Respondent's apartment was the cause of his injuries.
- Matter of Carrabasset Square Mgt. Corp., 90 AD 3d 1279 (3rd Dept. 2011): Affirming Decision of a lower court directing the dissolution of two (2) corporations and finding that a hearing regarding those issues was not required.

## LECTURES and PUBLICATIONS

- Panel Member, Webinar: Resolving Coverage Disputes in Mediation, presented to New York State Academy of Trial Lawyers, 2020
- Panel Member, Webinar: Specificity Reduces Dispute Time and Costs, presented to Fidelity National Financial, 2020
- Author, The Oral Argument - An Absolute Must When Appealing A Case, New York Law Journal Court of Appeals & Appellate Practice Special Report, 2017

## HONORS and AWARDS

- New York Law Journal "Best Of" survey, Top Ten - Best Individual Arbitrator Category, 2013-2017,
- One of two American judges selected by USAID (United States Agency for International Development) to participate in a judicial strengthening project being offered in the Republic of Macedonia, August 2013

## JUDICIAL EXPERIENCE

- Associate Justice of the Supreme Court of New York, Appellate Division, 2006-2012
  - Third Judicial Department, 2008-2012
  - First Judicial Department, 2006-2008
- Associate Justice of the NYS Supreme Court, 1999-2006

## LEGAL EXPERIENCE

- Appointment by New York State's Chief Judge to the Statewide Commission on Attorney Discipline, 2015
- Panelist in a forum held in the Republic of Macedonia on appellate practice and alternative dispute resolution, 2013
- Legal Consultant, United States Agency for International Development (USAID), 2013
- Former Member of the NYS Advisory Committee on Judicial Ethics, by appointment of the Chief Administrative Judge, 2005
- Former Member of the NYS Mass Tort Litigation Coordination Panel, by appointment of the Chief Administrative Judge, 2002
- Former Member of the New York State Bar Association's committee studying District Court jury trials
- Former Member of the Unified Court System's Drug Court Advisory Committee
- District Attorney of Ulster County, New York, 1978-1998
- Chief Assistant District Attorney, Ulster County, New York, 1974-1978
- Assistant District Attorney, New York County, New York, 1970-1974
- United States Army, 1968-1970

## PROFESSIONAL LICENSES and ADMISSIONS

- New York State Bar
- Ulster County Bar

## PROFESSIONAL AFFILIATIONS and ASSOCIATIONS

- New York State Bar Association
- Ulster County Bar Association
- Member, Board of Directors, WAMC Public Radio, Albany, NY
- Member, American Legion, Post 150, Kingston, NY

## EDUCATION

- Villanova University School of Law, J.D.
- Merrimack College, B.A.