



HON. E. MICHAEL KAVANAGH (Ret.)

Associate Justice, Appellate Division, 1st and 3rd Departments

After an illustrious legal career in public service as an Associate Justice of the Appellate Division and the Supreme Court, District Attorney and Prosecutor, Justice Kavanaugh 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. His success has been recognized by the legal community for five consecutive years in the New York Annual Reader Rankings Survey where he was voted a Top 10 Arbitrator in New York State in the "Best Individual Arbitrator" category, 2013-2017.

Justice Kavanaugh 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, Justice Kavanaugh spent 8 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, Hon. Kavanaugh 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 6 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 2009/2010 New York Judge Reviews, Judge Kavanaugh was given high marks for his demeanor, fairness and legal knowledge. Quoting from the Judge Reviews: "Judge Kavanaugh has impressed interviewees with his strong settlement and negotiating skills"... "He's a very effective negotiator". Lawyers interviewed described Judge Kavanaugh's legal knowledge as "excellent"... "He's a very fair person"... "His fairness is outstanding". Judge Kavanaugh received high praise for his trial management and settlement skills.

In 2013, Justice Kavanaugh 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. Most recently, he was appointed by the New York State's Chief Judge to the Statewide Commission on Attorney Discipline.



New York Law Journal
 Reader Rankings
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REPRESENTATIVE MATTERS

Significant trials presided over by Justice Kavanagh include:

- 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.

AREAS of EXPERIENCE

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| ■ Administrative Regulatory Reform | ■ Medical Malpractice |
| ■ Business/Commercial | ■ Negligence |
| ■ Construction | ■ Personal Injury |
| ■ Employment | ■ Premises Liability |
| ■ Insurance/Reinsurance Coverage | ■ Product Liability |
| ■ Labor Law | ■ Professional Liability |
| ■ Matrimonial | ■ Tax Certiorari |

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
- Adjunct Professor, State University of New York, New Paltz, 1982, 1984, 1993
- Guest Lecturer, NYS Bar Association, 1990, 2008-2010
- Guest Lecturer, NYS Division of Criminal Justice Services, 1979-1984
- *Cross Examination – A Prosecutor’s Perspective*, NYS Bar Association Publication, May 1983
- *The Voir Dire* NYS Department of Criminal Justice Services Publication, May 1984

HONORS and AWARDS

- New York Law Journal Reader Rankings Survey 2017, Top Ten - Best Individual Arbitrator Category
- New York Law Journal Reader Rankings Survey 2016, Top Ten - Best Individual Arbitrator Category
- New York Law Journal Reader Rankings Survey 2015, Top Ten - Best Individual Arbitrator Category
- New York Law Journal Reader Rankings Survey 2014, Top Ten - Best Individual Arbitrator Category
- New York Law Journal Reader Rankings Survey 2013, Top Ten - Best Individual Arbitrator Category
- August, 2013, 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
- Rated “highly qualified” as a Supreme Court Judge by the NYS Independent Judicial Qualifications Commission, Albany County and Ulster County Bar Associations, 2012
- Recipient, Distinguished District Attorney Award, from Governor George Pataki, 1999
- Designated by the Capital District Women’s Bar Association as “well qualified” and by the Ulster County Bar Association as “highly qualified” for the position of Supreme Court Justice
- Recipient, Gold Medal Human Service Award, Saint Cabrini Home, Inc., for contributions made to the Ulster County community, 1997
- Recipient, Distinguished Citizen Award, Rip Van Winkle Council, Boy Scouts of America, 1995
- Rated “well qualified” for the position of Federal District Court Judge by the American Bar Association, 1987
- Only candidate for the office of District Attorney ever to be rated “Highly Qualified” by the Ulster County Bar Association, 1981

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, 1986-Present
- Ulster County Bar Association, 1974-Present
- NYS District Attorney's Association, 1974-1998
- NYS District Attorney's Association, Executive Committee, 1980-1992
- National District Attorney's Association, 1978-1998
- Member, Board of Directors, WAMC Public Radio, Albany, NY, 1995-Present
- Member, American Legion, Post 150, Kingston, NY, 1980-Present
- Board Member, WAMC Community Relations Board, Albany, NY, 1988-1995
- Hurley Little League, Junior Girls Division, Hurley, NY, 1985
- Board Member, American Red Cross, NY Chapter, 1984-1988
- Advisory Board Member, Hospice-Kingston, NY, 1983-1986
- Board Member, Kingston Boys Club, Kingston, NY, 1980-1982
- Board Member, Association for Retarded Children, Kingston, NY, 1979-1980
- President, Wiltwyck Golf Club, Kingston, NY

EDUCATION

- Villanova University School of Law, J.D., 1968
- Merrimack College, B.A., 1965