



HON. ALAN D. SCHEINKMAN (Ret.)

Presiding Justice of the Appellate Division, 2nd Judicial Department

Hon. Alan D. Scheinkman's remarkable legal career as both a judge and litigator, includes his appointment as the Presiding Justice of the Second Judicial Department of the New York State Supreme Court, Appellate Division. During his tenure on the Appellate bench, he heard appeals of a wide variety of complex litigation matters that included business disputes, labor and employment partnerships, landlord and tenant, commercial foreclosure cases, business receiverships, business torts (fraud and deceit, usurpation of business opportunities), matrimonial and family law, trusts and estates, defamation, land use and construction, health law and wage and hour cases. He also created and presided over special panels hearing commercial, matrimonial, estate and land use appeals.

As the Presiding Justice, he oversaw the largest and busiest appellate court in the country hearing matters from three counties in New York City and matters from Nassau, Suffolk and Westchester counties and four other counties in the lower Hudson Valley. He was responsible for the management of all operations of the court which is comprised of 21 judges and determines over 4,000 appeals and 12,000 motions annually. He oversaw the discipline and admission of attorneys and was a member of the Administrative Board of the Courts, setting state-wide court policy. He also served by designation on the Court of Appeals.

Justice Scheinkman also has deep experience and knowledge regarding employment law disputes. As an appellate judge, trial judge and litigator, he has handled all types of employment matters that include breach of contract, trade secrets, confidentiality agreements, covenants not to complete, wrongful termination, discrimination, sexual harassment, and wage and hour disputes.

In 2006, Justice Scheinkman was elected to the New York State Supreme Court, Ninth Judicial District, where he was immediately assigned to serve as the Justice Presiding of the Commercial Division. During the next eleven years, he heard all manner of complex commercial litigation disputes and presided over jury and non-jury trials and hearings and thousands of motions and case conferences that included partnership and business disputes, contract disputes, employment termination and discrimination claims, disputes over major construction projects, wage and hour, class actions, landlord/tenant and security class actions. Judge Scheinkman was instrumental in settling a majority of the cases that were pending in the commercial division due to his hands-on approach and relatability to the parties and their counsel. He also oversaw the Residential Mortgage Foreclosure Conference Part which primarily involved cases when a lender sought to foreclose on a home against the borrower.

In addition to his Commercial Division responsibilities, he presided over the Matrimonial Trial Assignment Part where he mediated hundreds of cases to settlement. Due to his extensive experience with matrimonial cases as a litigator, he was acutely aware of the enormous stress and emotional toll that the divorce process has on those involved and worked with both the clients and their attorneys in bringing parties to a mutually agreed upon resolution so that all can move forward emotionally, financially and legally. He has deep knowledge of the law, as reflected in his authorship of practice commentaries and a treatise, both of which have been widely cited and relied upon by courts and attorneys. He advocates mediation as a means to resolution, rather than full-blown trial which may not achieve the result sought.

In 2009, while serving on the Supreme Court, he was appointed Administrative Judge for the Ninth Judicial District where he led several significant initiatives involving facility upgrades, technology implementation and case management, all during a time of budgetary restraints. He also created and presided over the Westchester County Compliance Part, supervising discovery in all general civil litigation. From 2007 – 2009, he served as Associate Judge on the Appellate Term for the Ninth and Tenth Judicial Districts where he heard civil and criminal appeals from city, town and village courts.

Prior to his judicial career, he was engaged in private practice and also served as Westchester County Attorney where he handled a wide variety of legal matters and disputes concentrating on commercial, employment discrimination, wrongful termination, matrimonial and federal litigation. As a trial lawyer, he tried numerous cases to verdict and represented parties in mediations and arbitrations. His legal career began as a Law Clerk for the Honorable Matthew Jasen, Associate Judge of the New York Court of Appeals.

Justice Scheinkman also has served as an Associate Professor of Law at St. John's University School of Law, authored and co-authored works on appellate practice and New York law and has been actively engaged in various Bar Association committees and Statewide Commissions, including the Committee on Pattern Jury Instructions, the Commercial Division Advisory Council and the Judicial Task Force on the State Constitution.

Justice Scheinkman is available to arbitrate and mediate commercial cases throughout the United States.

AREAS of EXPERIENCE

- Appellate
- Business / Commercial / Corporate
- Civil Rights
- Class Actions
- Construction
- Business Valuation/Finance/Accounting
- Election Law
- Foreclosures
- Health Care
- Labor and Employment
- Landlord and Tenant
- Legal Ethics / Professional Liability
- Partnership and Business Disputes
- Municipal Law
- Matrimonial and Family Law
- Real Estate
- Securities litigation
- Trade Secrets
- Trusts and Estates
- Wage and Hour

REPRESENTATIVE MATTERS

Published Judicial Appellate Opinions:

- *F v. New York City Department of Health*, A.D.3d, N.Y.S.3d, 2020 WL 7636501 (2d Dept. 2020) (upholding requirement for mandatory measles vaccination).
- *Maple Medical, LLP v. Scott*, A.D.3d, N.Y.S.3d, 2020 WL 7233649 (2d Dept. 2020) (holding that physician, not medical practice, was entitled to proceeds from demutualization of malpractice insurer).
- *Kaufman v. Kaufman*, 189 A.D.3d 31, 133 N.Y.S.3d 54 (2d Dept. 2020) (determining issues of equitable distribution, maintenance, child support and counsel fees in high net worth matrimonial action).

- *Trump v. Trump*, 2020 WL 3602286 (2020) (vacating temporary restraining order against publisher of book by niece of president).
- *People v. Beaton*, 179 AD3d 871, 118 N.Y.S.3d 240 (2d Dept. 2020) (establishing abuse of discretion as standard for appellate review of protective order in discovery in criminal case).
- *People v. Sutton*, 184 A.D.3d 236, 184 N.Y.S.3d 739 (2d Dept. 2020) (enforceability of waiver of appeal solicited by trial court).
- *NYCTL 1997-1 Trust v. Stell*, 184 A.D.3d 9, 124 N.Y.S.3d 41 (2d Dept. 2020) (mortgagee entitled to surplus money from auction sale of realty).
- *Matter of Cassini*, 182 A.D.3d 13, 118 N.Y.S.3d 702 (2d Dept. 2020) (denial of trial adjournment in contested probate proceeding was abuse of discretion).
- *Matter of Cassini*, 182 A.D.3d 13, 120 N.Y.S.3d 103 (2d Dept. 2020) (medical disability of attorney triggered automatic stay of proceedings; orders made during pendency of stay vacated).
- *Castro v. Malia Realty, LLC*, 177 A.D.3d 58, 109 N.Y.S.3d 314 (2d Dept. 2019) (trial of personal injury action should not have been bifurcated).
- *Matter of Newton v. McFarlane*, 174 A.D.3d 67, 103 N.Y.S.3d 445 (2d Dept. 2019) (child, through court-appointed attorney had standing to appeal custody decision).
- *Matter of John*, 174 A.D.3d 89, 103 N.Y.S.3d 541 (2d Dept. 2019) (biological father could adopt his own child who had been conceived through a surrogacy arrangement).
- *People ex rel. Wells v. DeMarco*, 168 A.D.3d 31, 88 N.Y.S.3d 518 (2d Dept. 2018) (county sheriff could not detain person on basis of federal immigration detainer and warrant which were not issued by a federal judge).
- *People v. Batista*, 167 A.D.3d 69, 86 N.Y.S.3d 492 (2d Dept. 2018) (concurring opinion joined by all other members of panel) (trial courts must carefully conduct inquiries before accepting waiver of appeal by criminal defendant).
- *Matter of Landstein v. Town of LaGrange*, 166 A.D.3d 100, 86 N.Y.S.3d 155(2d Dept. 2018) (town could not validly require amateur radio hobbyist to pay certain legal consulting fees related to special use and variance application).

Published Judicial Trial Court Opinions (partial list):

- *MBIA Ins. Corp. v. J.P. Morgan Securities LLC*, 45 Misc.3d 1202(A), 2014 WL 4797010 (Sup. Ct. Westchester County 2014). Defendant was entitled to summary judgment on \$168 million RMBS claim but without prejudice to assertion of claim of fraudulent concealment).
- *Deutsche Bank Nat. Trust Co. v Bernal*, 56 Misc.3d 915, 59 N.Y.S.3d 267 (Sup. Ct. Westchester County 2017). Case restricts ability of plaintiff in mortgage foreclosure action to avoid statute of limitations by rescinding acceleration of debt. Decision favorably cited in subsequent Second Department opinions (see *Christiana Trust v. Barua*, ___ A.D.3d ___, ___ N.Y.S.3d ___ (2020)).
- *People v. Castaldo*, 48 Misc.3d 996, 12 N.Y.S.3d 789 (Sup. Ct. Putnam County 2015). District Attorney not disqualified from prosecution of defendant who was potential witness in litigation between District Attorney and County Sheriff.
- *People v. Kennedy*, 43 Misc.3d 1201(A), 986 N.Y.S.2d 867, 2014 WL 1128261 (Justice Ct., Town of North Castle, Westchester County 2014). Granted motion by Defendant to transfer misdemeanor trial from local justice court to Supreme Court due to inability of court facility to accommodate high-profile criminal trial.
- *Ukrainian Natl. Federal Credit Union v. Balko*, 40 Misc.3d 505, 969 N.Y.S.2d 728 (2013). Residence was not principal dwelling within meaning of RPAPL §1304 and CPLR 3408. Decision favorably cited in *Independence Bank v. Valentine*, 113 A.D.3d 62, 976 N.Y.S.2d 504 (2d Dept. 2013).
- *Martin v. Restaurant Associates Events Corp.*, 35 Misc.3d 215, 937 N.Y.S.2d 556 (Sup. Ct. Westchester County 2012), affd 106 A.D.3d 785, 966 N.Y.S.2d 436 (2d Dept. 2013). Upholding complaint in class action for recovery of service charges paid by event sponsors to caterer which event sponsors may have perceived to gratuities intended for employees.

- *Mandell v. Mandell*, 36 Misc.3d 797, 949 N.Y.S.2d 580 (Sup. Ct. Westchester County 2012). Provision barring counsel from representing wife, set forth in unsigned collaborative law agreement, unenforceable.
- *Summit Constr. Serv. Group v. ACT Abatement, LLC*, 34 Misc.3d 823, 935 N.Y.S.2d 499 (Sup. Ct. Westchester County 2011). Analyzes Department conflict and federal cases and concludes that out-of-state guarantor of agreement to be performed in New York is subject to long-arm jurisdiction in New York in action on guaranty.
- *Sheraton Operating Corp. v. Castillo Grand, LLC*, 34 Misc.3d 1207(A), 943 N.Y.S.2d 794 (Sup. Ct. Westchester County 2011). Trial decision holding hotel operator liable to hotel owner for \$43 million in damages for breaches of operating agreement. Decision extensively reported on in media.
- *Zavaglia v. Sarah Neuman Center for Healthcare and Rehabilitation*, 25 Misc.3d 590, 883 N.Y.S.2d 889 (Sup. Ct. Westchester County 2009). Non-injured spouse entitled to recover pecuniary value of services provided to injured spouse. Cited by Second Circuit in *House v. Kent Worldwide Machine Works, Inc*, 359 Fed. Appx. 206 (2d Cir. 2010), in *Dockery v. U.S.*, 663 F. Supp. 2d 111 (N.D.N.Y. 2009), and in *New York Law of Torts*, §§21:59, 21:39, 21:60.
- *Brandifino v. CryptoMetrics, Inc.*, 27 Misc.3d 513, 896 N.Y.S.2d 623 (Sup. Ct. Westchester County 2010). Former employer that failed to pay required fee to arbitrator, pursuant to arbitration rules and parties' arbitration agreement, waived right to arbitration.
- *Board of Managers of Marbury Club Condominium v. Marbury Corners, LLC*, 28 Misc.3d 1240(A), 958 N.Y.S.2d 306, 2010 WL 3730082 (Sup. Ct. Westchester County 2011), affd 98 A.D.2d 641, 950 N.Y.S.2d 280 (2d Dept. 2012), lv. denied 20 N.Y.3d 862, 987 N.E.2d 642, 965 N.Y.S.2d 81 (2013). Invalidating \$2.2 million dollar note to developer based on Real Property Law, §339-jj.
- *Rosado v. A&P Food Store*, 26 Misc.3d 935, 891 N.Y.S.2d 636 (Sup. Ct. Westchester County 2009). Defendant could obtain second examination of plaintiff where defendant's first expert retired and was unavailable to testify.
- *Century-Maxim Constr. Corp. v. One Bryant Park, LLC*, 23 Misc.3d 1120(A), 886 N.Y.S.2d 70, 2009 WL 1218895 (Sup. Ct. Westchester County 2009). Dismissing most of claim of contractor for extras in significant building contract. Quoted in *Travelers Cas. and Sur. Co. v. Dormitory Authority*, 735 F. Supp. 2d 42 (S.D.N.Y. 2010).
- *Stern v. H. DiMarzo, Inc.*, 19 Misc.3d 1144(A), 867 N.Y.S.2d 20, 2008 WL 2369749 (Sup. Ct. Westchester County 2008). Analysis of Article 3-A of the Lien Law quoted and found to be extensive and persuasive discussion in *Ippolito v. TJC Development, LLC*, 83 A.D.3d 57, 920 N.Y.S.2d 108 (2d Dept. 2011).
- *Akalski v. Counsell*, 29 Misc.3d 936, 908 N.Y.S.2d 537 (Sup. Ct. Westchester County 2010). Form and scope of authorizations for medical records in personal injury cases.
- *Kaung v. Board of Managers of Biltmore Towers*, 22 Misc.3d 854, 873 N.Y.S.2d 421 (Sup. Ct. Westchester County 2008), affd 70 A.D.3d 1004, 895 N.Y.S.2d 505 (2d Dept. 2010). Building by-laws preclude installation of wireless antenna on roof.
- *Tal v. Superior Vending LLC*, 20 Misc.3d 1103(A), 867 N.Y.S.2d 21, 2008 WL 2447365 (Sup. Ct. Westchester County 2008), affd 71 A.D.3d 1153, 898 N.Y.S.2d 191 (2d Dept. 2010). Significant decision in judicial dissolution of limited liability companies (see, e.g., *Mahler and Donovan*, *Review of Business Divorce Cases in 2010*, N.Y.L.J., January 19, 2011 p. 4 col. 1).
- *Krebs v. Canyon Club, Inc.*, 22 Misc.3d 1125(A), 880 N.Y.S.2d 873, 2009 WL 440903 (Sup. Ct. Westchester County 2009). Cited in *Spicer v. Pier Sixty LLC*, 259 F.R.D. 321 (S.D.N.Y. 2010) and *Fowler v. Scores Holding Co.*, 677 F. Supp. 2d 673 (S.D.N.Y. 2009). Class action by catering employees to recover for service charges collected by employer from customers in lieu of gratuities.

- *Held v. Macy's Inc.*, 25 Misc.3d 1219(A), 901 N.Y.S.2d 906, 2009 WL 3465945 (Sup. Ct. Westchester County 2009). Dismissing claims arising from department store gift card program. Discussed in New York State Consumer Protection Law and Class Actions in 2009, Part II, May New York State Bar Journal 24 (2010).
- *Mount Vernon City School Dist. v. Nova Cas. Co.*, 30 Misc.3d 1231(A), 927 N.Y.S.2d 817, 2008 WL 8241616 (Sup. Ct. Westchester County 2008), affd 78 A.D.3d 1028, 910 N.Y.S.2d 922 (2d Dept. 2010), affd 19 N.Y.3d 28, 968 N.E.2d 439, 945 N.Y.S.2d 202 (2012). Denying summary judgment and upholding jury verdict in favor of school district in construction case; bonding company relied on claim of diversion of funds.

LECTURES and PUBLICATIONS

- Speaker, *What Matrimonial Lawyers Should Expect from Private Judging*, webinar presented to the American Academy of Matrimonial Lawyers (AAML), 2021
- Co-Presenter, *Finding a Path to Justice Through Mediation*, webinar presented to the New York State Academy of Trial Lawyers, 2021
- Author, Practice Commentaries to McKinney's New York Domestic Relations Law
- Directing Editor, McKinney's Matrimonial and Family Law (MFL)
- Co-author, *Practitioner's Handbook to Appeals to the Appellate Division of the State of New York*, New York State Bar Association (2nd and 3rd Editions), 2005 and 2007
- Lecturer, Finding the Perfect Number, 2019 Annual Appellate Justices Seminar
- Lecturer, New Judges' School, 2017-2020
- Author, *Joint Ventures Can Increase Revenues But Activities With For-Profits Must be Properly Lawfully Conducted*, New York Law Journal, 2001
- Reporter, *Task Force on Administrative Adjudication*, New York State Bar Association, 1988
- Co-Editor, *One-on-One*, the publication of the New York State Bar Association Section on General Practice, 1987 – 1989
- Co-Author, *A Tribute to Judge Matthew J. Jasen*, 35 Buffalo L., 1986
- Author, *New York Law of Domestic Relations*, West Publishing Company, 1986
- Lecturer, *Annual Judicial Seminars*, New York State Office of Court Administration, 1986 – 2000
- Reporter, *Association of Supreme Court Justices Committee on Pattern Jury Instructions – Civil*, 1985 – 1997
- Contributing Author, Chapter, *The Broker's Duties and Liabilities*, Rohan, Goldstein & Bobis, Real Estate Brokerage Law & Practice, Matthew Bender, 1984
- Contributing Author, Chapter, *Termination of Parental Rights*, Child Custody & Visitation: Law & Practice, Matthew Bender, 1984
- Author, *The Civil Jurisdiction of the New York Court of Appeals: The Rule and Role of Finality*, St. John's Law Review, 1980

HONORS and AWARDS

- Merit Award, Judicial Section, New York State Bar Association
- Honoree, New York State Academy of Trial Lawyers
- Recipient, Boris Kostelantzev President's Medal, New York County Lawyers Association
- Honoree, Suffolk County Bar Association
- Honoree, Westchester Bar Foundation and Westchester County Bar Association
- William Goodstein Memorial Award, Association of Law Secretaries to the Justices of the Supreme and Surrogate's Courts

- Honoree, Rockland County Bar Association
- Honoree, Roosevelt Chapter of the American Inns of Court
- Honoree, Brandeis Association (Queens)
- Honoree, White Plains Bar Association
- Neil Shayne Award, Jewish Lawyers Association of Nassau County
- Constance Baker Motley Award, Westchester County Black Bar Association

JUDICIAL EXPERIENCE

- Presiding Justice of the Appellate Division, Second Judicial Department, 2018 – 2020
- Administrative Judge, Ninth Judicial District, 2009 – 2017
- Associate Justice, Appellate Term, Second Department, Ninth and Tenth Judicial Districts, 2007 – 2009

LEGAL EXPERIENCE

- Partner, Delbello, Donellan, Weingarten, Tataglia, Wise & Wiederkehr, 2002 – 2006
- Partner, Epstein, Becker & Green, P.C., 2001 – 2002
- County Attorney, Westchester County, NY, 1998 – 2000
- Partner, Scheinkman, Fredman & Kosan, 1990 – 1997
- Associate Professor of Law, St. John's University, 1984 – 1990
- Associate Counsel, New York State Temporary Commission on the Recodification of the Family Court Act, 1982 – 1983
- Associate, Golenblock & Barell, 1979 – 1982
- Associate, Marshall, Bratter, Greene, Allison & Tucker, 1977 – 1979
- Law Clerk, Hon. Matthew J. Jasen, Senior Associate Judge, New York State Court of Appeals, 1977

PROFESSIONAL LICENSES and ADMISSIONS

- New York State Appellate Division, Second Department, 1976
- United States District Court, Southern, Eastern and Northern Districts of New York, 1976 – 1997
- United States Supreme Court, 1990
- United States Court of Appeals, Second Circuit, 1992
- United States Court of Appeals, District of Columbia, 2002

PROFESSIONAL AFFILIATIONS and ASSOCIATIONS

- Co-Chair, Judicial Task Force on the State Constitution, 2017 – Present
- Member, Commercial Division Advisory Council, 2013 – Present
- Member, Association of Supreme Court Justices Committee on Pattern Jury Instruction – Civil, 2008 – 2020
- Chair, New York State Bar Association Task Force on the New York Bar Examination, 2018-present
- Member, Judicial Commission on Interbranch Relations, 2008 – 2010

- Adjunct Professor of Law, St. John's University School of Law, 1999 – 2008
- 2nd Vice President, County Attorneys' Association, State of New York, 1999 – 2000
- Member, Judicial Hearing Officer Selection Committee for the Ninth District, 1993 – 2002
- Adjunct Professor of Law, Pace University School of Law, 1991 – 1997
- Adjunct Professor of Law, Rutgers University, School of Law, 1990 – 1991
- Member, Board of Trustees, Supreme Court Library at White Plains, 1990 – 1992, 2005
- Executive Director, New York State Bar Association Task Force on Administrative Adjudication, 1987 – 1988
- Reporter, New York Pattern Jury Instructions – Civil, 1985 – 1997
- Member, New York State Bar Association Committee on Courts of Appellate Jurisdiction, 1983 – 2004, 2008 – 2009

EDUCATION

- St. John's University School of Law, J.D., 1975
- George Washington University, J.D., 1972