

Be Prepared to Upgrade to Commercial Division 2.0—at Least in Westchester County

By Matthew D. Donovan

The Commercial Division is world-renowned for its efficiency and innovativeness when it comes to proposing and adopting new and amended rules of practice. Indeed, as recently as March of this year, the Advisory Council proposed amendments to existing Commercial Division Rules 9, 11, and 17 that would reinforce courts' existing authority under the CPLR to direct pretrial evidentiary hearings, encourage parties to consider technology-assisted document review and coding in discovery, and substitute word limits for page limits in motion papers.

But this isn't the only area in which the Commercial Division is on the cutting edge of innovation. On June 21, members of the Commercial and Federal Litigation Section's Committee on the Commercial Division, along with Westchester County Commercial Division Justices Linda S. Jamieson and Gretchen Walsh, presented a CLE program entitled "21st Century Courtroom: Using Integrated Courtroom Technology in the Commercial Division." The program featured a mock traverse hearing during which the participating judges, lawyers, and witnesses showcased in "how-to" fashion the newly implemented Integrated Courtroom Technology (ICT) in the Commercial Division courtroom, Courtroom 105, located in the Westchester County Courthouse Annex in White Plains.

As described in a recent New York State Bar Association *Journal* article co-written by former Westchester County Commercial Division Justice Alan D. Scheinkman, in January of this year, the Westchester Commercial Division became the first civil court in the state to implement ICT, "enabling all courtroom participants—judges, clerks, attorneys, litigants, witnesses, jurors, and members of the public—to take fullest advantage of modern evidence presentation systems." The stated goal of the ICT initiative "was to obtain the latest and best courtroom technology and to tailor it to fit the needs of the Commercial Division" (see Hon. Alan D. Scheinkman and Sheng Guo, *Tech in the Courtroom*, 90 NYSBA *Journal* 3 (March/April 2018)).

Some of the hi-tech features showcased during the June 21 mock hearing included:

- High definition monitors for the bench, counsel tables, witnesses, jurors, and the gallery, which are controlled by the judge or clerk in terms of what is displayed, when, and on which monitors;
- An "ELMO" document camera, fixed at the podium, which can be used to display evidence on all courtroom monitors;



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- Touch-screen witness monitors, on which witnesses can annotate evidence using their finger or a stylus. Annotated evidence can then be captured, saved, and printed for consideration by the judge and/or jury;
- Courtroom cameras, one facing the bench and another facing counsel tables and the gallery, can be utilized for remote appearances via Skype or other video-conferencing technologies;
- Enhanced audio-conferencing integrated into the courtroom's sound system, complete with a "white noise" function allowing for confidential, side-bar communications between attorney and client or attorney and judge;
- Real-time transcription of court proceedings, which can be displayed on all courtroom monitors; and
- Charging stations available at counsel tables with standard AC outlets and wireless charging for compatible smartphones and tablets.

Notably, Justice Jamieson made a point of advising at the outset of the program that counsel need only bring with them to court their laptop or tablet, a USB flash drive, and their own HDMI cable, but that they should be sure to schedule with court personnel in advance of the proceedings a dry-run and equipment test to ensure compatibility and that everything is in working order. In short, gone are the days of hauling in banker's boxes of trial exhibits and binders duplicated multiple times over for the judge, witnesses, and opposing counsel—at least in the Westchester County Commercial Division.

** Nota bene*—To all current and future Westchester County Commercial Division practitioners: If you missed the June program but want to familiarize yourself with the ICT features in Courtroom 105 in preparation for appearing before Justices Jamieson or Walsh, fear not. The Commercial and Federal Litigation Section's Committee on Continuing Legal Education was on hand to film the presentation, which will be spliced and packaged for distribution on the NYSBA's "CLE Online and On-Demand" site later this year.

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