

# The Commercial and Federal Litigation Section Makes Stop in Jamaica to Discuss Impact of New Commercial Division Rules on Queens County Bar

By Matthew D. Donovan

The Commercial and Federal Litigation Section of the New York State Bar Association continued its workshop tour concerning the new Commercial Division Rules at the Queens County Bar Association in Jamaica, New York, on June 30, 2015. Program Chairs Samuel B. Freed of Farrell Fritz, P.C. and John A. Mitchell of Mitchell & Incantalupo organized the panel discussion. Keynote speaker, Hon. Marguerite A. Grays of the Queens County Commercial Division, was introduced by Section Chair, James M. Wicks of Farrell Fritz, P.C. Matthew D. Donovan also of Farrell Fritz, P.C., moderated the discussion. Approximately 35 Queens County practitioners were in attendance.

As with similar programs sponsored by the Nassau, Suffolk, and Westchester County Bar Associations, the purpose of the Queens County panel discussion was twofold: to provide an opportunity to educate practitioners about the new Commercial Division Rules, as well as provide some insight into best practices in the Queens County Commercial Division. And who better to educate and provide insight to Queens County practitioners than the Presiding Justice of the Commercial Division herself, Justice Grays?

Justice Grays opened with some brief remarks concerning the history of the Commercial Division, particularly in Queens County, followed by a comprehensive overview of the new and proposed Commercial Division Rules. Among the new rules singled out for discussion by the moderator and Justice Grays were those concerning mandatory mediation and the resolution of discovery disputes.

An outspoken advocate of the Queens County Commercial Division's ADR Program, Justice Grays encouraged practitioners to make use of mediation early and often, stating that she frequently directs newly assigned cases on her docket to mandatory mediation. She praised the Mandatory Mediation Pilot Program in New York County, by which every fifth case filed in the Commercial



**Panelists: Hon. Marguerite A. Grays, Presiding Justice Commercial Division Queens County, and Matthew D. Donovan, Esq., of Farrell Fritz, P.C.**

Division automatically is assigned to mandatory mediation, and made a point of stating that she would be receptive to an expansion of the program in Queens County. In response to the moderator's questions concerning the unfortunate tendency of some practitioners to exploit the mediation process as a litigation tactic—*e.g.*, as an opportunity for free discovery and stalling—Justice Grays pointed to the new Preamble to the Rules, which makes reference to the “frustration” all too often expressed by clients and attorneys alike “with adversaries who engage in dilatory tactics” and highlights the authority of the court to impose sanctions “as is warranted by the circumstances.”

Praising the efforts of her esteemed law secretary, Nicole McGregor, who also was on hand for the panel discussion, Justice Grays noted that the new rules not only have behind them a spirit of efficiency and cost-effectiveness, but that they were designed to make good use of court resources as well. New Commercial Division Rule 14, for example, provides for the resolution of discovery disputes by way of limited letter briefing and teleconferencing with the judges' law secretaries so as to avoid the costs and delays associated with unnecessary and extensive filings in connection with motions to compel or for protective orders. Justice Grays remarked that Ms. McGregor's assistance in this regard has been indispensable in providing much-needed relief to an already overburdened motion docket. Rule 14 also has had the effect of allowing Justice Grays to focus on some of the more substantive disputes underlying her overall caseload.

In short, the Section's June 30 stop in Queens was both successful and productive. Practitioners in attendance no doubt left the program better versed on the new Commercial Division Rules in general and better equipped to navigate the particularities of their respective practices in the Queens County Commercial Division.

**Matthew D. Donovan is Counsel to Farrell Fritz, P.C.**