



HON. ALAN D. SCHEINKMAN*

Presiding Justice, Supreme Court of the State of New York, Appellate Division, Second Judicial Department (Ret.)

The Hon. Alan D. Scheinkman's remarkable legal career as both a judge and litigator include his appointment as the Presiding Justice of the Second Judicial Department of the New York State Supreme Court, Appellate Division. Judge Scheinkman applies his expansive knowledge and experience in his capacity as a Hearing Officer at NAM arbitrating and mediating a broad array of matters including business, commercial, contracts, construction, and consumer finance matters, legal malpractice, personal injury, real estate, sexual abuse, trusts and estates.

Since joining NAM, Justice Scheinkman has mediated several complex construction disputes. He was selected to mediate a construction matter involving a group of investors who had acquired a site for the development of a new luxury resort hotel. There were claims by the owners against the construction company of fraud due to their slow walking construction on their project, causing the owner to miss a key deadline in their development deal. The claims of alleged slow walking included insufficient staffing, late ordering or non-ordering of materials, diversion of project labor and materials onto the other competing project, while assuring the owners that all was proceeding smoothly. The construction company claimed that there were unexpected site conditions and change orders. He was also selected to mediate a claim involving a water treatment plant wherein the construction cost significantly more than budgeted. The contractor claimed that there were unexpected site conditions that drove up the cost. The architect claimed that the contractor did a poor job and that the extra charges were not necessary or covered by the contract. Justice Scheinkman was able to successfully mediate the dispute as to the extra amounts claimed and whether the charges were or were not appropriate.

Judge Scheinkman has extensive experience in arbitrating and mediating construction-related disputes. As County Attorney, Justice Scheinkman was responsible for all County contracts, including county construction contracts and construction litigation. As to construction litigation, he handled significant litigation over claims for extras (by the contractor) and for construction defects (by the County) with respect to the construction of a new airport terminal at the Westchester County Airport, as well as similar claims with respect to the repair and replacement of portions of several county sewage treatment plants and County roads (in particular, the Bronx River Parkway). Justice Scheinkman oversaw the bid documents and contract drafting with respect to a number of bridges and roads that had to be repaired on an emergency basis in the aftermath of Hurricane Floyd.

As a trial judge, Justice Scheinkman handled a construction issue involving a major County private country and golf club on a dispute involving the installation of an advanced geothermal heating and cooling system. The Club terminated the contractor during construction. The contractor sued the Club for damages; the Club sued the bonding company on the contractor's construction bond for the costs the Club incurred in repairing/completing the work and the contractor and architect for malpractice. Justice Scheinkman was able to resolve all claims and resolved the matter before trial.

While in practice, Justice Scheinkman litigated a case involving a claim of poor construction/constructive eviction. He represented a client who had built a large warehouse-type building for a major retailer. The retailer moved out mid-lease, claiming that the space was uninhabitable due to a sinking floor. The issues litigated included the significance of the alleged sinking floor and the integrity of the structure. After discovery and motions for summary judgment, the case was ultimately resolved for several million dollars.

During his tenure on the Appellate bench, Justice Scheinkman heard a wide variety of appeals including complex litigation matters such as business disputes, labor and employment, partnerships, landlord and tenant, commercial foreclosure cases, business

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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, Justice Scheinkman 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, as well as four other counties in the lower Hudson Valley. He was responsible for the management of all operations of the courts which are comprised of 21 judges, determined over 4,000 appeals and 12,000 motions annually, and was also responsible for oversight of the discipline and admission of attorneys. Justice Scheinkman was a member of the Administrative Board of the Courts, setting state-wide court policy and also served by designation on the Court of Appeals. As an appellate judge, trial judge, and litigator, he has handled all types of employment cases including breach of contract, trade secrets, confidentiality agreements, covenants not to complete, wrongful termination, discrimination, sexual harassment, and wage and hour disputes.

Additionally, Justice Scheinkman has experience in overseeing numerous matters relating to cybersecurity and data privacy. He handled both civil and criminal cases presenting issues of electronic surveillance and improper access to computer information. A significant matter that Justice Scheinkman arbitrated dealt with the effect of the New Jersey Computer Related Offenses Act in New York State. It was claimed that the defendants had violated the Act by copying the information from the plaintiff company's computer system and then used the information in a competing business and further alleged that the defendant had violated common law standards of fiduciary duty by copying digital information on his/her employer's computer system and then using it to compete against the former employer. Further, he has overseen numerous discovery disputes wherein there were claims involving the tampering of computer information.

As a trial judge, Justice Scheinkman handled a large number of construction cases involving change orders and delay claims, including a large construction matter in Fort Lauderdale, Florida, which took place over four weeks. This matter involved the hotel chain and the hotel owner. Justice Scheinkman also heard matters involving a 52-story skyscraper and disputes over the construction of a public school.

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 over the Commercial Division. During the next eleven years, Justice Scheinkman heard all manner of complex commercial litigation disputes and presided over jury and non-jury trials and hearings, as well as thousands of motions and case conferences. These included partnership and business disputes, contract disputes, employment termination and discrimination claims, disputes over major construction projects, wage and hour, class actions, landlord/tenant matters, and security class actions. Justice 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, Justice Scheinkman presided over the Matrimonial Trial Assignment Part where he mediated hundreds of cases to settlement. As a result of his extensive experience with matrimonial cases as a litigator, Justice Scheinkman was acutely aware of the enormous stress and emotional toll that the divorce process has on those involved. He worked with both the clients and their attorneys in bringing parties to a mutually agreed-upon resolution so that all could move forward emotionally, financially, and legally. He has authored practice commentaries and a treatise, both of which have been widely cited and relied upon by courts and attorneys.

While serving on the Supreme Court, Justice Scheinkman 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. He previously 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, Justice Scheinkman 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. He was responsible for the bid documents, review, and negotiation of construction contracts and supervised litigation over those construction projects.

As the Westchester County Attorney, he oversaw the county's compliance with construction contracts, as well as its contractors' compliance. 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 was recognized by the legal community in 2024 when he was ranked in the Top 10 Individual Arbitrators in the state by the New York Law Journal's "Best Of" survey. He was previously designated the #1 Arbitrator in the same prestigious survey. Justice Scheinkman 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. A strong supporter of alternative dispute resolution, Justice Scheinkman advocates for mediation as a means to resolution.

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

AREAS of EXPERIENCE

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| ■ Appellate Practice | ■ Employment Law | ■ Real Estate Law |
| ■ Attorney Malpractice/Legal Ethics | – Employment Contracts | – Foreclosures |
| ■ Banking/Finance/Accounting | – Employment Discrimination | ■ Real Property/Land Law/Leasing |
| – Business Valuation | – Sexual Harassment | ■ Privacy Law/Cybersecurity |
| ■ Business/Corporate/Partnership | – Wage and Hour Law | ■ Professional Liability/Malpractice (Non-Medical) |
| ■ Civil Rights | – Wrongful Termination | ■ Securities/Financial |
| – Election Law | ■ Federal Law | ■ Sexual Abuse/Harassment |
| ■ Class Action/Mass Filings | ■ Matrimonial/Family Law | ■ Trade Secrets |
| ■ Commercial | ■ Municipal Law | ■ Trusts and Estates/Probate |
| ■ Construction | ■ Personal Injury | |
| ■ Construction Defect | ■ Privacy Law/Cybersecurity | |
| ■ Consumer Law | ■ Professional Liability/Malpractice (non-medical) | |
| ■ Healthcare Law | | |

REPRESENTATIVE MATTERS

Published Judicial 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.
- *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

- Panelist, *Calming the Workplace: Effective Use of Arbitration and Mediation*, webinar presented through PLI (Practising Law Institute), 2024
- Panelist, *Navigating ADR Strategies in the Age of Mass Filings*, webinar presented by NAM (National Arbitration and Mediation), 2023
- Panelist, *ADR Considerations for General Counsel and In-House Legal Departments in the Era of Mass Filings*, presented through ALM-Law.com/GCC East, 2023
- Panelist, *ADR Considerations for General Counsel and In-House Legal Departments*, webinar presented through the Practising Law Institute (PLI), 2023
- Speaker, *Legal Ethics and the Mediation Process*, webinar presented to Celesq AttorneysED Center in partnership with Thomas Reuters, 2023
- Speaker, *Workplace Conflict Resolution Through Mediation and Arbitration*, webinar presented to the National Academy of Continuing Legal Education (NACLE), 2023
- Author, *Workplace Conflict Resolution Through Mediation and Arbitration*, New York Law Journal Mediation Column, 2023
- Panelist, *Working It Out - Effective Employment Dispute Resolution*, webinar presented to the New York State Academy of Trial Lawyers, 2023
- Speaker, *Legal Ethics and the Mediation Process*, webinar presented to National Academy of Continuing Legal Education (NACLE), 2022
- Co-presenter, *Inside the Mind of the Mediator: Avoiding Impasse and Maximizing Outcomes in Mediation* webinar presented by NAM (National Arbitration and Mediation), 2022
- Author, *Valuation Disputes and Disagreements - ADR Could Be the Solution for Dissolution*, New York Law Journal, 2022
- Speaker, *Ethics and the Mediation Process*, webinar presented to the Orange County California Bar Association, 2022
- Author, *Mediating Multi-Party Commercial Disputes - A Roadmap to Resolving Complex Matters*, New York Law Journal Mediation Column, 2022
- Speaker, *Virtual Business Roundtable*, presented to the Jewish Business Network, 2021

- Author, *Landlord/Tenant Disagreements – Reaching A Resolution Through ADR*, New York Law Journal ADR Special Report, 2021
- *A Conversation with NAM Neutral, Hon. Alan D. Scheinkman*, 5 Minutes with Fried podcast conducted by Michael L. Fried, Esq. of Berkman, Bottger Newman and Schein, LLP, 2021
- 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 New York State Academy of Trial Lawyers, 2021
- Lecturer, *Finding the Perfect Number*, 2019 Annual Appellate Justices Seminar

HONORS and AWARDS

- *New York Law Journal* "Best Of" survey
 - Top Ten – Best Individual Arbitrator Category, 2024
 - Winner – Best Individual Arbitrator Category, 2021
- Merit Award, Judicial Section, New York State Bar Association
- Honoree, New York State Academy of Trial Lawyers
- Recipient, Boris Kostelanetz 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 for the Southern District of New York
- United States District Court for the Eastern District of New York
- United States District Court for the Northern District of New York
- United States District Court for the Eastern District of New York, Mediation Panel
- United States Bankruptcy Court for the Eastern District of New York, Mediation Panel
- 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
- Member, Commercial Division Advisory Council

EDUCATION

- St. John's University School of Law, J.D.
- George Washington University, B.A.