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Michael Farinacci is a Staff Attorney in the Firm's Litigation department.

Education

- St. John's University School of Law (J.D., *magna cum laude*, 2017)
 - Senior Staff Member, *St. John's Law Review*
 - Managing Editor, *Commercial Division Online Law Report*
- Stony Brook University (B.A., *cum laude*, 2008)

Admissions

- New York

NY Commercial Division Blog

Patterson Belknap's Commercial Division Blog covers developments related to practice and case law in the Commercial Division of the New York State Supreme Court. The Commercial Division was formed in 1993 to enhance the quality of judicial adjudication and to improve efficiency in the case management of commercial disputes that are litigated in New York State courts. Since then, the Division has become a leading venue for judicial resolution of high-stakes and every-day commercial disputes. This Blog reviews key developments in the Commercial Division, including important decisions handed down by the Commercial Division, appellate court decisions reviewing Commercial Division decisions, and changes and proposed changes to Commercial Division rules and practices. Our aim is to provide you with thoughtful and succinct analysis of these issues. The Blog is written by experienced commercial litigators who have substantial practices in the Commercial Division.

Two Court of Appeals Judges to Retire in 2021

November 10, 2020

Judge Leslie Stein and Judge Eugene Fahey were confirmed together and will retire together. The two judges have been part of a group of judges who have cast the deciding votes in many of the Court's cases. Judge Stein plans...

Rule 11-g Amended to Include "Attorneys Eyes Only" Designation

October 5, 2020

On September 23, 2020, Chief Administrative Judge Marks amended Commercial Division Rule 11-g and the Division's Standard Form Confidentiality Order ("SFO") to allow parties to designate certain documents as highly confidential for attorney's eyes only ("AEO"). Such a designation already...

Rule 6 Amendment Increases the Font Size of Footnotes and Requires Hyperlinking to the NYSECF Docket

October 2, 2020

On September 29, 2020, Chief Administrative Judge Marks amended Commercial Division Rule 6 to increase the font size of footnotes in briefs and affidavits from 10-point to 12-point. Additionally, it requires the use of a proportionally spaced serif typeface (e.g.,...

The Commission to Reimagine the Future of New York's Courts Releases Goals for Restarting in-Person Juries

August 12, 2020

In mid-June, Chief Judge Janet DiFiore appointed the Commission to Reimagine the Future of New York's Courts, and charged it with examining technological, regulatory, and other long-term innovations for New York Courts. Additionally, in the short-term, it was to provide...

Justice Scarpulla Appointed to the Appellate Division, First Department

July 14, 2020

On July 13, 2020, Governor Cuomo appointed four Supreme Court Justices to fill vacancies on the Appellate Division, First Department. The Governor elevated Justices Saliann Scarpulla, Manuel Jacobo Mendez Olivero, Martin Shulman and Tanya R. Kennedy, who represent the diversity...

Repeal of Rule 23: the 60-Day Rule

June 25, 2020

On June 23, 2020, Chief Administrative Judge Marks approved the repeal of Rule 23 of the Commercial Division Rules. Rule 23 (known as the "60-Day Rule") required movant's counsel to notify the court and other parties whenever a motion had...

Chief Judge DiFiore Announces Expanded In-Person Court Services in Five Upstate Regions

June 17, 2020

On June 15, 2020, Chief Judge DiFiore announced that the five upstate regions—Finger Lakes, Central New York, Mohawk Valley, Southern Tier, and North Country—that began Phase III reopening last Friday, June 12, will expand the number of in-person functions in...

Amendment to Rule 1 Allowing Video Appearances

June 17, 2020

On June 16, 2020, Chief Administrative Judge Marks approved an amendment to Rule 1 to the Commercial Division Rules. The amendment is designed to allow counsel to request the court's permission to appear through videoconferencing and other similar technology. It...

Governor Andrew Cuomo Extends Tolling of Statute-of-Limitations

June 9, 2020

On June 6, 2020, New York Governor Andrew Cuomo issued Executive Order 202.38, which, among other things, extends the tolling period contained Executive Order 202.8 until July 6, 2020. As we have previously reported, Executive Order 202.8 “tolled” through April 19, 2020 “any specific...

Five Upstate Judicial Districts Begin Phase II of In-Person Court Operations

June 4, 2020

Chief Judge Janet DiFiore and Chief Administrative Judge Lawrence K. Marks announced that courts in the Fifth Judicial District, Sixth Judicial District, and Seventh Judicial District will enter Phase II of re-opening on June 3, 2020, and it will expand...

Phase One Re-Opening of In-Person Court Operations

May 15, 2020

On May 13, 2020 the New York State Unified Court System announced a plan for the gradual return of judges, clerks, and court staff to courthouses in select upstate counties—with litigants being able to electronically file new cases in those...

Gov. Cuomo Tolls Procedural Laws Including Statutes of Limitations

April 9, 2020

Original Post (March 23, 2020) On March 20, 2020, in order to limit court operations in light of the evolving COVID-19 emergency, Governor Cuomo issued Executive Order 202.8. That order, among other things, tolls through April 19, 2020 “any specific time...

Seventh Judicial District Assigns New Justice

February 10, 2020

Justice Craig Doran, the Administrative Judge of the Seventh Judicial District, assigned Justice J. Scott Odorisi to the Commercial Division. Justice Odorisi replaces Justice Matthew Rosenbaum. Justice Odorisi was elected to the New York State Supreme Court in 2013 and...

A Year in Review: Top Commercial Division Blog Posts of 2019

January 8, 2020

2019 was a momentous year for the Commercial Division. Below are the top developments related to the Commercial Division that our blog covered in 2019. Commercial Division Expands to Bronx County: New York’s Chief Judge Janet DiFiore announced, at her annual...

Patterson Belknap Publishes an Updated, Second Edition of the New York Commercial Division Practice Guide

January 6, 2020

Patterson Belknap Webb & Tyler LLP is pleased to announce the publication of the second edition of its New York Commercial Division Practice Guide. As with the first edition, the guide is organized into various chapters drafted by Patterson Belknap...

Advisory Council Proposes a Series of Commercial Division Rule Changes

September 20, 2019

The final month of summer has seen a flurry of rulemaking activity with the Commercial Division Advisory Council (the “Advisory Council”) proposing four changes to the Commercial Division Rules. The Office of Court Administration has requested public comment on each...

Bronx County Commercial Division Begins its Inaugural Term on September 3, 2019

August 14, 2019

At her annual State of the Judiciary speech held on February 26, 2019 at Bronx County Supreme Court, Chief Judge Janet DiFiore announced that the Commercial Division will be expanding to Bronx County, effective April 1, 2019.[1] On August 4,...

A Fond Farewell to Two of the Commercial Division’s Most Senior Judges

January 10, 2019

The arrival of the new year is a bittersweet time for the Commercial Division as it bids farewell to two of its most senior judges: Justice Charles E. Ramos and Justice Eileen Bransten. Notably, both will be staying on to...

First Department Rules that Arbitrators Did Not Manifestly Disregard the Law and Confirms Arbitration Award

October 2, 2018

On September 27, 2018, in a widely followed arbitration case, a unanimous panel of the Appellate Division, First Department concluded that the New York County, Commercial Division (Ramos, J.) erred when it partially vacated an arbitration award on the ground...

Commercial Division Finds Foreign Corporations Lack Sufficient Contacts with New York for Personal Jurisdiction

July 30, 2018

On July 5, 2018, Justice Saliann Scarpulla of the Commercial Division granted a motion to dismiss by All Nippon Airways, Co. Ltd., ANA Aircraft Technics, Co., Ltd., ANA Base Maintenance Technics, Co., Ltd., ANA Holdings, Inc., and All Nippon Airways...

Alter Ego Claim Survives Pre-Answer Motion to Dismiss on an Equitable Ownership Theory

July 20, 2018

On July 2, 2018, Justice Barry R. Ostrager of the Commercial Division denied a motion to dismiss by UMG Recordings, Inc. (“Universal”), an alter ego theory of liability against it in Aspire Music Group, LLC v. Cash Money Records, Inc.,[i]...

Court of Appeals Rules: What the “Value of His Interest in the Partnership” Means under New York Partnership Law

April 26, 2018

The New York Court of Appeals, in Congel v. Malfitano,[1] recently ruled that the “Poughkeepsie Galleria Company” (the “Partnership”) was not an at-will partnership and that therefore Defendant Marc Malfitano’s (the “Defendant”) unilateral dissolution of the partnership breached the partnership...

Second Department Finds Commercial Tenants Can Waive Their Right to a Yellowstone Injunction

March 6, 2018

On January 31, 2018, the Appellate Division, Second Department affirmed,[1] in a 3-1 decision, the Kings County Supreme Court Commercial Division's decision, denying 159 MP Corp. and 240 Bedford Ave Realty Holding Corp.'s (collectively the "Tenants") motion for a Yellowstone...

Special Proceeding Seeking a Judicial Decree to Dissolve an LLC

January 16, 2018

In *Advanced 23, LLC v. Chambers House Partners, LLC*, No. 650025/2016, 2017 BL 462831 (NY. Sup. Ct. Dec. 15, 2017), Justice Saliann Scarpulla of the Commercial Division ruled that *Advanced 23, LLC* ("Advanced") and David Shusterman's ("Shusterman" and collectively, "Petitioners")...