

## A REVIEW OF HAIG'S *COMMERCIAL LITIGATION* IN NEW YORK STATE COURTS

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COMMERCIAL LITIGATION IN NEW YORK STATE COURTS. Edited by Robert L. Haig, Esq.†† St. Paul: West Publishing Co. 1995. Vol. 2 pp. CXXIII, 961; Vol. 3 pp. LXXXIII, 1018; Vol. 4 pp. LXXX-III, 1335.

In September 1992, the Review Committee for the Individual Assignment System (the "Committee"),<sup>1</sup> appointed by then Chief Judge Sol Wachtler, recommended the establishment of specialized parts within the supreme court to handle complex commercial litigation. In particular, the Committee suggested that such parts be established in New York County, where commercial litigation appeared to be most voluminous and complex. The specialized parts were to be responsible for all aspects of commercial litigation, from the initial filing of a Request for Judicial Intervention to the ultimate disposition of a claim.

These specialized parts were designed to create a cadre of experienced judges who would use active management techniques to resolve commercial disputes swiftly, fairly, and in expert fashion. The Committee was of the opinion that the complex nature of commercial litigation required vigilant judicial supervision. If commercial litigation cases were left amidst the general case inventory, they would be deprived of necessary attention and burden the entire system. Over the decades, the workload of judges in New York expanded, inhibiting their ability to manage difficult and complex legal commercial issues with the speed, thoroughness, and depth they so merit. In turn, commercial litigators voted with their feet

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<sup>1</sup> The Committee was established to review the effectiveness of the newly instituted Individual Assignment System, where one judge guides a case from its inception to its disposition. The Committee was appointed by former Chief Judge Sol Wachtler.

and took their cases to federal court. Accordingly, New York ceased to be the paramount center for commercial litigation in the United States. The Committee sought to reinvigorate New York's ability to dispense efficient, considered, influential, and wise justice in such cases.

The commercial parts of the Supreme Court, New York County, established on January 1, 1993, have been a huge success. In February 1995, at the urging of the Commercial and Federal Litigation Section of the New York State Bar Association, Chief Judge Judith S. Kaye established a Commercial Courts Task Force. The Task Force recommended the creation of a Commercial Division to provide a structured setting for that which the parts were already doing. On November 6, 1995, Chief Judge Kaye, with the support of New York County Administrative Judge Stanley S. Osttrau, established Commercial Divisions in New York County and Rochester.

The creation of the Commercial Divisions has spirited this new treatise *Commercial Litigation in New York State Courts*.<sup>2</sup> Robert L. Haig, Esq., the Editor-in-Chief, brought together an impressive group of judges and practitioners to compile the chapters. As a former practicing attorney, I see in the authors such dedication to scholarship and principles of justice.<sup>3</sup> Sixty-three principal authors

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<sup>2</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS (Robert L. Haig ed., 1995); 3 *id.*; 4 *id.* This work consists of volumes two through four of *West's New York Practice Series*, together with a computer disk which contains all the forms and jury charges sampled in the volumes. It is a joint venture of West Publishing and the New York County Lawyer's Association.

<sup>3</sup> The authors include: Stewart D. Aaron, Robert M. Abrahams, John L. Amabile, Arthur H. Aufses, III, Celia Goldwag Barenholtz, Garrard R. Beeney, Mark A. Belnick, Charles G. Berry, Richard L. Bond, David M. Brodsky, John F. Cannon, P. Kevin Castel, Ellen M. Coin, J. Peter Coll, Jr., The Honorable Barry A. Cozier, Donald Francis Donovan, Richard E. Donovan, Robert S. Duboff, Peter G. Eikenberry, Blair C. Fensterstock, William R. Golden, Jr., David M. Gouldin, The Honorable Steward F. Hancock, Jr., David L. Hoffberg, Laura B. Hoguet, Stephen M. Hudspeth, Gary S. Jacobson, J. Christopher Jensen, Jay B. Kasner, Stephen L. Kass, The Honorable Judith S. Kaye, Stephen Rackow Kaye, Louis B. Kimmelman, The Honorable Theodore R. Kupferman, Deborah E. Lans, Bernice K. Leber, Mark D. Lebow, Burton N. Lipshie, Mitchell A. Lowenthal, Alan Mansfield, Peter J. Mastaglio, Sayward Mazur, John P. McCahey, Thomas McGanney, Joseph T. McLaughlin, Edwin B. Mishkin, James C. Moore, The Honorable Francis T. Murphy, Richard E. Nolan, John M. Nonna, The Honorable Geoffrey J. O'Connell, James M. Ringer, Gary L. Rubin, Edward L. Sadowsky, Jay G. Safer, Frederick P. Schaffer, The Honorable George Bundy Smith, Robert S. Smith, James L. Stengel, Harry P. Trueheart, III, Kevin J. Walsh, and Stephen A. Weiner.

The co-authors include: Liza R. Berliner, Jennifer Bernheim, Frederick A. Brodie, Lynn E. Busath, Irene Chang, Flor M. Colón, Jodi A. Danzig, Thomas F. Fleming, Richard A. De Palma, Laurie Strauch Dix, Leonard Allen Feiwus, Janet A. Gordon,

contributed to this work, and Mr. Haig notes that many others offered to help as well.<sup>4</sup> I am pleased to commend Mr. Haig and his authors for their outstanding public service in bringing this work to life.

This treatise provides a comprehensive and in-depth examination of procedural and substantive commercial law in New York. All the principle topics of substantive commercial law are discussed in detail. It contains thorough discussions of the rules of procedure, including some of the more treacherous ones, such as the procedure for commencing third-party actions.<sup>5</sup> The helpful (but not overwhelming) footnotes, library references, and case citations will aid a lawyer needing to explore a point in greater detail. The table of contents and index are clear, comprehensive, and easy to use. I think it fair to say that even Judge Cardozo would have found this treatise quite helpful if the text had been around in his day!

What is most unique about this work is that it is more than a form book, practice manual, or substantive treatise. It is a road map for practice and strategy, from the decision to litigate to collection of judgment. There are able and thoughtful examinations of important questions of practice, tactics, strategy, and ethics, together with most useful forms. The work even includes sample jury charges, a welcome addition for busy trial lawyers.

Volume two, consisting of twenty-nine chapters, examines a range of issues including jurisdiction,<sup>6</sup> venue,<sup>7</sup> the drafting of a complaint,<sup>8</sup> filing procedures for commencing a third party action,<sup>9</sup> disclosure,<sup>10</sup> and motion practice.<sup>11</sup> There are also strategy discussions on settlement,<sup>12</sup> such as how to position a case so that it can be settled for the right amount at the right time,<sup>13</sup> and jury

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Michael C. Griffen, Elisa F. Hyman, Christopher P. Johnson, Jonathan Z. King, Richard A. Lingg, Robert Malaby, Jean M. McCarroll, Robert P. McGreevy, James F. Parver, Dorothea W. Regal, Harold E. Schimkat, Amelia T.R. Starr, Beverly G. Steinberg, Gloria M. Trattles, Carol E. Warren, Kevin C. Walker, Michael R. Wright, and Andrew M. Zeitlin.

<sup>4</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at XI.

<sup>5</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 206-12.

<sup>6</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 9-49.

<sup>7</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 50-74.

<sup>8</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 96-137.

<sup>9</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 206-12.

<sup>10</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 587-622.

<sup>11</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 775-812.

<sup>12</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 891-922.

<sup>13</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 892-93.

selection.<sup>14</sup> Chapter one sets the stage, discussing the historical perspective of commercial law from the eighteenth century to the twentieth century.<sup>15</sup> Particularly enlightening is the fact that certain basic features of New York litigation in 1795 remain the same today, such as dissatisfaction with fees, arbitration, the special verdict, and the struck jury.<sup>16</sup> This chapter provides an in-depth analysis of the relationship between commercialization and litigation, encouraging legal practitioners to commit "to provid[ing] an attractive venue in the State courts for the expeditious and skillful resolution of commercial disputes."<sup>17</sup> Since New York "considers itself a world business capital [, it] must offer a court system commensurate with that role. The two, after all, are inextricably linked."<sup>18</sup>

The remaining chapters in this volume provide a wealth of detailed information. For example, chapter three discusses the law of venue in New York as it pertains to the parties involved and the type of relief sought.<sup>19</sup> It provides a basic understanding of the contractual venue provisions,<sup>20</sup> defines the standards for changing venue,<sup>21</sup> and discusses procedures for changing venue and waiver.<sup>22</sup> Within the text there is a discussion of the pragmatic considerations for determining proper venue.<sup>23</sup> For example, more than one venue may be proper, even seemingly mandatory venue provisions may be overcome, and the parties may agree on a forum.<sup>24</sup> Forms for requesting a venue change<sup>25</sup> and a practice checklist<sup>26</sup> are provided to guide practitioners through the change of venue process.

Chapter ten discusses the substantive law governing enforcement of agreements to arbitrate under federal and New York law,<sup>27</sup> and the enforcement of forum selection clauses.<sup>28</sup> Further, chapter eleven provides the procedures for raising or objecting to a

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<sup>14</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 923-55.

<sup>15</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 1-8.

<sup>16</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 3.

<sup>17</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 8.

<sup>18</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 8.

<sup>19</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 53-61.

<sup>20</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 51-53.

<sup>21</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 61-65.

<sup>22</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 65-69.

<sup>23</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 69-71.

<sup>24</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 70.

<sup>25</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 72-74.

<sup>26</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 71-72.

<sup>27</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 309-26.

<sup>28</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 333-42.

choice of law clause and waiving its enforcement.<sup>29</sup>

The depth of this treatise is illustrated in chapter fourteen. It examines the standard for determining whether a preliminary injunction is justified,<sup>30</sup> and outlines the procedure for obtaining a preliminary injunction.<sup>31</sup> It ascertains how the court assesses the amount of damages a defendant sustains by reason of a preliminary injunction<sup>32</sup> and then expressly states the type of relief the court may grant.<sup>33</sup> The chapter also examines the law that governs the practice and procedure of provisional remedies such as a temporary restraining order,<sup>34</sup> attachment,<sup>35</sup> temporary receivership,<sup>36</sup> notice of pendency,<sup>37</sup> and seizure of chattel.<sup>38</sup>

The multitude of forms supplied within the treatise is illustrated in chapter fifteen. The chapter examines the capacity of parties to sue and be sued, whether they be partnerships or associations,<sup>39</sup> or unauthorized foreign corporations.<sup>40</sup> The forms include a Motion for Substitution,<sup>41</sup> Interpleader Complaint,<sup>42</sup> Affirmation in Opposition to Motion to Intervene,<sup>43</sup> a Motion and Order for Poor Person Relief,<sup>44</sup> and an Order Approving Settlement of an Infant's Action.<sup>45</sup> Although these forms are available elsewhere, their compilation in one place will prove to be handy for the practitioner.

According to chapter eighteen, disclosure is "one of the most important components of commercial litigation . . . . Disclosure encompasses not only information about the client and its claim that you and your adversary will obtain from each other, but also information that may have to be obtained from third parties."<sup>46</sup> The chapter further discusses the importance of developing a dis-

<sup>29</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 359-60.

<sup>30</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 417-24.

<sup>31</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 425-28.

<sup>32</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 420-25.

<sup>33</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 428-31.

<sup>34</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 431-35.

<sup>35</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 435-50.

<sup>36</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 451-55.

<sup>37</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 455-60.

<sup>38</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 460-66.

<sup>39</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 500.

<sup>40</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 500-02.

<sup>41</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 508-10.

<sup>42</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 511-12.

<sup>43</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 512-15.

<sup>44</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 515-17.

<sup>45</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 518.

<sup>46</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 588.

covery plan for commercial cases,<sup>47</sup> and the methods of obtaining disclosure.<sup>48</sup>

Volume three details the nuts and bolts of litigation. The mechanics of trial practice (witness examination,<sup>49</sup> final argument,<sup>50</sup> and jury charges<sup>51</sup>) and post-trial procedures (motions,<sup>52</sup> appellate practice,<sup>53</sup> and enforcement of judgments<sup>54</sup>) are given great attention. The anchor of this volume is its introductory chapter on trials. This chapter begins with a discussion of theories and observations which can help the practicing commercial attorney understand the processes and complexities associated with commercial litigation.<sup>55</sup> Although there are similarities between commercial trials and trials of other types, there are some notable differences. For instance, the subject matter of the commercial case is often technical in nature, there may be differences in background and experience between judge or jury and the witnesses, and commercial cases are characterized by a predominance of documents as sources of evidence, the use of depositions, and extensive witness preparation.<sup>56</sup> Trial structures and strategies are discussed in an easy to understand and apply style.<sup>57</sup>

Even more helpful for the litigator are subsequent chapters which discuss the aspects of trial. An overview is provided for every conceivable step: Preliminary conferences,<sup>58</sup> presentation of the case in chief,<sup>59</sup> cross-examination,<sup>60</sup> expert witnesses,<sup>61</sup> and final arguments,<sup>62</sup> just to name a few. Each chapter contains concrete examples which illustrate the particular topic.<sup>63</sup> For example, the chapter on expert witnesses contains an excerpt of expert testimony, including a direct examination and *voir dire* of an expert

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<sup>47</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 592-97.

<sup>48</sup> 2 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 611-13.

<sup>49</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 103-293.

<sup>50</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 429-59.

<sup>51</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 460-97.

<sup>52</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 611-24.

<sup>53</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 793-960.

<sup>54</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 961-82.

<sup>55</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 4-14.

<sup>56</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 4.

<sup>57</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 35-48.

<sup>58</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 53-68.

<sup>59</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 102-79.

<sup>60</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 180-215.

<sup>61</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 216-93.

<sup>62</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 429-59.

<sup>63</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 89-101, 149-79, 211-15, 269-93, 457-59.

witness.<sup>64</sup> These examples provide an excellent frame of reference for attorneys.

Also included in this volume is a discussion of evidence and related issues of admissibility in the commercial context.<sup>65</sup> Hearsay<sup>66</sup> and the Parol Evidence Rule<sup>67</sup> are both discussed in the same easy to understand language that characterizes this entire treatise.

The remainder of the chapters in this volume address the issues of compensatory and punitive damages,<sup>68</sup> enforcement of judgments,<sup>69</sup> and appellate practice in the Appellate Divisions<sup>70</sup> and the Court of Appeals.<sup>71</sup> Finally, in keeping with the great depth this treatise offers, such topics as alternative dispute resolution<sup>72</sup> and ethical issues which may arise in commercial cases,<sup>73</sup> including potential conflicts of interest<sup>74</sup> and confidentiality,<sup>75</sup> are included. This volume is a compendium of sound advice, as well as a practical guide.

Although volume four is of a more technical nature, the clarity is not lost. This volume details issues involved in handling specific types of commercial cases, and provides strategies for pursuing and defending against these claims. For example, there are chapters covering insurance,<sup>76</sup> banking litigation,<sup>77</sup> and collections.<sup>78</sup> New York agency law and its impact in commercial litigation cases are discussed.<sup>79</sup> The succeeding chapter provides an analysis of warranty claims<sup>80</sup> and defenses.<sup>81</sup> An emphasis is placed on express<sup>82</sup> and implied<sup>83</sup> warranties under Article 2 of the New York Uniform

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<sup>64</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 269-73.

<sup>65</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 366-428.

<sup>66</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 371-85.

<sup>67</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 385-412.

<sup>68</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 498-566.

<sup>69</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 961-982.

<sup>70</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 791-900.

<sup>71</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 901-60.

<sup>72</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 567-91.

<sup>73</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 983-1018.

<sup>74</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 984-98.

<sup>75</sup> 3 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 998-1003.

<sup>76</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 83-149.

<sup>77</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 150-202.

<sup>78</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 240-62.

<sup>79</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 309-54.

<sup>80</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 367-377.

<sup>81</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 377-88.

<sup>82</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 361-63.

<sup>83</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 363-66.

Commercial Code. The latter chapters of this volume are dedicated to antitrust litigation,<sup>84</sup> torts of competition,<sup>85</sup> construction litigation,<sup>86</sup> and environmental litigation.<sup>87</sup> Most chapters provide an analysis of preliminary strategic considerations<sup>88</sup> and checklists of essential allegations<sup>89</sup> and potential defenses.<sup>90</sup>

The volume closes with a helpful overview of jurisdiction and procedural matters in the Surrogate's Court.<sup>91</sup> The final chapter proposes a model for corporate litigation management which should prove helpful to all commercial litigators.<sup>92</sup> It includes recommendations as to how corporate litigation can be managed cost-effectively, such as returning telephone calls promptly, providing in-house training for attorneys on litigation and negotiation, and periodically reviewing litigation referred to outside counsel to determine if similar matters may be handled in-house in the future.<sup>93</sup> The quick reference tables and indexes provide easy cross reference within all volumes of the treatise.<sup>94</sup>

With so many contributors, the result could have been confusing, but Mr. Haig and his colleagues at West Publishing managed a seamless and well-organized presentation. However, due to the multiplicity of authors, readers who spend time immersed in these volumes may miss a single, consistent, unique, and stylistic authorial voice such as that found in Professor Siegel's *New York Practice*<sup>95</sup> or Wigmore's *Evidence in Trials at Common Law*.<sup>96</sup> Moreover, greater depth in each topic's substantive law is needed. The for-

<sup>84</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 570-626.

<sup>85</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 627-83.

<sup>86</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 728-99.

<sup>87</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 800-95.

<sup>88</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 3-15, 85-92, 204-09, 241-44, 265-68, 310-12, 357-58, 404-05, 457-60, 512-15, 571-75, 628-30, 686-88, 730-35, 802.

<sup>89</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 33, 129-32, 166-68, 191-92, 297-98, 346, 393-94, 415-16, 500-03, 560-63, 619-20, 669-80, 718, 775.

<sup>90</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 33-34, 134, 300, 347, 396-97, 416-17, 565-66, 669-80, 718, 775-76, 924-25.

<sup>91</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 896-925.

<sup>92</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 955-59.

<sup>93</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 954.

<sup>94</sup> 4 COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, *supra* note 2, at 960-1335.

<sup>95</sup> DAVID D. SIEGEL, *NEW YORK PRACTICE* (2d ed. 1991).

<sup>96</sup> 1 JOHN HENRY WIGMORE, *EVIDENCE IN TRIALS AT COMMON LAW* (Peter Tillers rev. vol. 1983 & Supp. 1996); 1A *id.* (1983 & Supp. 1996); 2 *id.* (James H. Chadbourne rev. vol. 1979 & Supp. 1996); 3 *id.* (1970 & Supp. 1996); 3A *id.* (1970 & Supp. 1996); 4 *id.* (1972 & Supp. 1996); 5 *id.* (1974 & Supp. 1996); 6 *id.* (1976 & Supp. 1996); 7 *id.* (1978 & Supp. 1996); 8 *id.* (John T. McNaughton rev. vol. 1961 & Supp. 1996); 9 *id.*

mer is not a fundamental problem. Indeed, many a single author fails to accomplish this level of consistency. The latter is due to a limit on space; it is hardly a condemnation to wish for more volume. There will, one hopes, be room to grow in the future.

Haig's *Commercial Litigation in New York State Courts* will promptly become indispensable for all commercial litigators within the Empire State. Those unfamiliar with the New York court system will also find these volumes priceless. Additionally, this treatise will be of great assistance to the Commercial Division and to all New York courts faced with issues in commercial law. It is my hope that this excellent treatise, along with the formation of the Commercial Division, will restore New York as the center of commercial law in the United States.