

# Observational Notes on Meet New York's Commercial Judges: Justice Emerson, Eighth Judge–Junior Attorney Webinar

By Rosa Guerrero

On May 9, 2023, the Commercial and Federal Litigation Section hosted the eighth in a year-long series of monthly webinars featuring conversations between junior attorneys and Commercial Division justices throughout the State of New York. The guest for the event was Justice Elizabeth Hazlitt Emerson, who sits on the Commercial Division in Suffolk County. Structured as a conversation that allowed attorneys to engage with the judge, the event was moderated by Laura Tsang, an assistant law clerk at the New York Supreme Court, Appellate Division, First Department, and Michael Lieberman, an associate at Fox Rothschild.

Justice Emerson graduated magna cum laude from Boston College and magna cum laude from Syracuse University College of Law. Before coming to the bench, Justice Emerson was a partner of Shearman & Sterling. Her practice included the representation of domestic and foreign commercial banks, investment banks, and corporations in the structuring, negotiating, and documentation of complex financing transactions. A representative sample of these transactions included acquisition financings, leveraged buyouts, restructurings, project finance, and public offerings. She has served as a Supreme Court judge since 1996. After spending several years in a general civil part, Justice Emerson was asked to help establish a Commercial Division in Suffolk County. Consequently, the Suffolk County Commercial Division was established in October 2002. At that time, Justice Emerson became the first Commercial Division justice in Suffolk County and has served in that capacity ever since.

## The Value of Transactional Practice for Litigators

Justice Emerson commenced the discussion by describing her background as both a litigator and a transactional attorney, noting the value of having spent time on both sides of the practice. Justice Emerson's legal career began as a litigator but she transitioned early on to corporate transactional work. She explained that when she was on the transactional side, her firm's litigation department constantly noted how important it was to have courts that understood complex business issues because it is important to "support businesses with processes that support business disputes."

When asked how junior litigators can obtain transactional knowledge, Justice Emerson stated that though litigation is a different practice, the skill set can still be similar. She suggest-

ed obtaining mediation and arbitration experience because the skills are easily transferable to other types of practice. Additionally, Justice Emerson encouraged younger attorneys to ask transactional departments for opportunities to sit in on negotiations such as a closing. Finally, she suggested attending seminars, being part of bar association projects, and keeping abreast of financial transactions in the *Wall Street Journal*, *Financial Times*, and various law journals.

## Recommended Practices Before Appearing in Court

Justice Emerson stated there was no substitution for preparation before appearing in court. She urged lawyers to ensure they review all relevant documents and obtain a good understanding of their client and the structures and processes within the client. She also recommended reaching out to opposing counsel before appearing in court to determine if issues can be narrowed so that attorneys are coming into court with as much resolved as possible. Narrowing the issues greatly assists the court because then the courts can focus on only the issues that really require the court's intervention and expertise.



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