

William E. McCarthy, JSC (Ret.)

255 Washington Avenue Extension · Suite 108 · Albany · New York · 12205

(518) 429-7514

judge@mccarthyadr.com

www.mccarthyadr.com

Principal, McCarthy ADR Services, LLC (January 2019 – present)

Mediator and arbitrator in private practice, serving private parties as well as in connection with various state and federal courts. Counseling and consulting on cost-effective problem-solving strategies, dispute avoidance and resolution, in and outside of litigation. Intensive neutral practice, including arbitration and mediation. Mediated and arbitrated claims including, but not limited to, public and private sector employment related disputes, business, commercial, corporate, real estate, UCC, fraud, breach of contract, breach of warranty, shareholder, partnership, franchise, motor vehicle, personal injury, disputes between commercial tenants and disputes between landlords and tenants (commercial and residential).

Member, State of New York Public Employment Relations Board voluntary grievance arbitration panel (7/2024 to present)

Member, State of New York/NYSCOPBA Statewide Disciplinary Arbitration Panel (2019 to present)

Rendered numerous binding decisions involving various types of grievances resolving a wide variety of issues.

Hearing Officer for the New York State and Local Retirement System (NYSLRS) (2020 to present)

Conducted hundreds of hearings with respect to members and other interested parties in connection with their applications for various types of benefits, including disability retirement benefits and performed the duties of the Comptroller outlined in RSSL sections 74 and 374 under a written designation.

Member, AAA Consumer Arbitration Panel (2020 to present)

Serve as arbitrator in cases involving disagreements between consumers and businesses

JUDICIAL EXPERIENCE

New York State Supreme Court

Associate Justice, Appellate Division, Third Judicial Department (January 2009 – December 2018)

- Member of the Constitutional Court (2013 – 2018)

Associate Justice, Appellate Division, Second Judicial Department (December 2006 – January 2009)

Adjudicated civil appeals from the Supreme Court, Surrogate's Court, Family Court, and Court of Claims and criminal appeals and motions from the Supreme Court and County Court. Adjudicated certain original proceedings, including special proceedings against certain judicial officers, transferred CPLR article 78 proceedings to review determinations of administrative bodies or officers made after a hearing at which evidence was taken, proceedings to review certain determinations of the New York State Division of Human Rights, habeas corpus proceedings and proceedings regarding the professional discipline of attorneys. Adjudicated appeals from decisions of state agencies. Entertained bail applications.

Justice, New York State Supreme Court, Third Judicial District (June 2004 – December 2006)

Presided over civil matters in the Third Judicial District as assigned by the Administrative Judge and managed IAS case load in Supreme Court, Albany, Ulster and Schoharie Counties. As of January 2006, served as Justice in charge of the Commercial Division for Supreme Court, Albany County. Presided over jury and non-jury trials, hearings, conferences and guardianship and mental hygiene proceedings. Decided pre-trial and post-trial motions, CPLR article 78 proceedings and pistol permit licensing and revocation matters. Received grand jury reports and considered warrant and wiretap applications.

NOTABLE DECISIONS AND OPINIONS

- *Stinton v Robin's Wood, Inc.*, 45 AD3d 203 (2007)
- *Hochhauser v Electric Ins. Co.*, 46 AD3d 174 (2007)
- *Mendrzycki v Cricchio*, 58 AD3d 171 (2008)
- *Matter of Lynch v Buffalo Bills, Inc.*, 62 AD3d 1061 (2009)
- *Salatino v Salatino*, 64 AD3d 923 (2009)
- *Matter of McClam v American Axle & Mfg.*, 79 AD3d 1315 (2010)
- *Angelino v Michael Freedus, D.D.S., P.C.*, 69 AD3d 1203 (2010)
- *People v Peele*, 73 AD3d 1219 (2010)
- *Parnes v Parnes*, 80 AD3d 948 (2011)
- *Cunningham v Anderson*, 85 AD3d 1370 (2011)
- *People v Wright*, 81 AD3d 1161 (2011)
- *Lombardi, Walsh, Wakeman, Harrison, Amodeo & Davenport, P.C. v American Guar. & Liab. Ins. Co.*, 85 AD3d 1291 (2011)
- *Pritchard v Curtis*, 101 AD3d 1502 (2012)
- *Matter of Zeppieri v Hofstra Univ.*, 94 AD3d 1288 (2012)
- *ARB Upstate Communications LLC v R.J. Reuter, LLC*, 93 AD3d 929 (2012)
- *Chase Home Finance, LLC v Miciotta*, 101 AD3d 1307 (2012)
- *PHH Mortgage Corp. v Davis*, 111 AD3d 1110 (2013)

- Ivory v International Bus. Machines Corp., 116 AD3d 121 (2014)
- Matter of Winters v Advance Auto Parts, 119 AD3d 1041 (2014)
- People v Pham, 118 AD3d 1159 (2014)
- Matter of Kelly v DiNapoli, 137 AD3d 1470 (2016), affd 30 NY3d 674 (2018)
- Matter of Hawkins v New York State Dept. of Corrections and Community Supervision, 140 AD3d 34 (2016)
- Matter of Pena v New York State Gaming Commn., 144 AD3d 1244, 1247-1252 (2016) (McCarthy, J., dissenting), revd for reasons stated in dissenting opn below 32 NY3d 1122 (2018)
- Matter of DeVera v Elia, 152 AD3d 13 (2017), affd 32 NY3d 423 (2018)
- Solartech Renewables, LLC v Vitti, 156 AD3d 995 (2017)
- Matter of Stancarone v DiNapoli, 161 AD3d 144 (2018)
- Kanaly v DeMartino, 162 AD3d 142 (2018)
- Matter of National Energy Marketers Assn. v New York State Pub. Serv. Commn., 167 AD3d 88 (2018)

LEGAL EXPERIENCE

Executive Chamber

Senior Assistant Counsel to the Governor (February 1998 – June 2004)

Under the direction of the Counsel to the Governor, provided legal advice to the Governor in regard to the constitutionality and legal effect of legislation presented for executive action. Drafted the Governor's Legislative Program, met with lobbyists, and led negotiations with the Legislature. Served as liaison to numerous State agencies and public authorities, including the Department of Transportation, the Department of Motor Vehicles, all transportation related authorities, the Division of Housing and Community Renewal, all housing related authorities, the Office of General Services, the Office of Real Property Services and the Consumer Protection Board. Worked cooperatively with agency commissioners and their counsels to carry out the Governor's agenda.

New York State Unified Court System

Principal Law Clerk to New York State Court of Claims Judge/Acting Supreme Court Justice Edward A. Sheridan (April 1997 – February 1998)

Principal Law Clerk to New York State Supreme Court Justice Joseph Harris (January 1994 – April 1997)

Principal Law Clerk to New York State Supreme Court Justice Edward S. Conway (October 1990 – December 1993)

Researched and analyzed legal questions and issues and prepared memoranda with recommendations. Drafted opinions, decisions, orders, jury charges, correspondence and other written material. Conferred with and advised Judge on legal issues. Conducted conferences with litigants to clarify issues, set timelines for the completion of discovery and scheduled trials.

Siena College

Adjunct Professor (September 1996 – December 1996)

Taught course on Business Law.

Mildred Elley Business School Paralegal Program

Instructor (May 1994 – August 1996)

Taught courses on Property Law, Contract Law and Domestic Relations Law.

Rensselaer-Columbia-Greene Counties Board of Cooperative Educational Services

Specialist, Legal and Labor Relations (August 1988 – October 1990)

Conducted research regarding rights of employees pursuant to contracts, governing case law and relevant statutes and advised BOCES and component districts. Oversaw contract management. Assisted in the preparation of management proposals for negotiations. Published bi-monthly newsletter to inform school administrators of legislative changes and decisions by various tribunals relating to education.

New York State United Teachers (NYSUT) AFL-CIO

Law Clerk (May, 1986 to June 1988)

Conducted research and drafted memos regarding member issues.

PROFESSIONAL ASSOCIATIONS AND AFFILIATIONS

- The Labor Relations Connection, Inc. (2024 - present)
- Member, Albany County Bar Association (2004 – present)
- Member, Association of Justices of the Supreme Court of the State of New York (2005 – 2018) - Executive Committee (2015 – 2018)
- Member, New York State – Federal Judicial Council, by appointment of the Presiding Justice (2014 – 2018)
- Member, New York State Continuing Legal Education Board, by appointment of the Chief Administrative Judge (2015 – 2018)
- Chair, Appellate Division, Third Judicial Department Continuing Legal Education Committee, by appointment of the Presiding Justice (2014 – 2017)
- Referee, Panel for the Supreme Court of New South Wales, by appointment of the Chief Judge (2012 – 2018)
- Member, Appellate Division, Third Judicial Department Portable Electronic Device Usage Committee, by appointment of the Presiding Justice (2013)
- Member, New York State CPLR article 81 Guardianship Committee (2005 – 2006)

PRESENTATIONS

- 12th Annual Mock Trial Shaker Junior High School Law Day Program, Presiding Justice (May 2018)

- Moot Court Competition Shaker Junior High School (March 2018)
- 11th Annual Mock Trial Shaker Junior High School Law Day Program, Presiding Justice (May 2017)
- 2017 New York State High School Mock Trial Tournament (May 2017)
- “Matrimonial Matters: New Maintenance Guidelines Statute and How We Got Here?” for the Joint Appellate Division Seminar Continuing Legal Education Program, moderator (May 2016)
- “Sexual Offenders and Post-Incarceration MHL Article 10 Civil Commitment and SORA Proceedings” for the Joint Appellate Division Seminar Continuing Legal Education Program, moderator (May 2015)
- “Appellate Practice, Brief Writing and Oral Argument” for the Albany County Bar Association’s Continuing Legal Education Program (June 2013)
- “Meet the Justices of the Appellate Division, Third Department,” for the New York State Bar Association’s Continuing Legal Education Program (April 2013)
- “A View from the Bench” for the Albany County Bar Association’s Continuing Legal Education Program (May 2011)
- “Ethics” for the Albany County Bar Association’s Continuing Legal Education Program (August 2010)
- “Master of the Bench” for the American Inns of Court, Albany Law School Chapter (Fall 2004 – Fall 2006)
- “Gambling with Your Case – Motions and Appeals How the Judges See It” for the Albany County Bar Association’s Continuing Legal Education Program (April 2005)
- “Lienholder Rights in Local Vehicle Forfeiture Statutes and Procedures in New York State” for Albany Law School’s Government Law Center Forum (May 2003)

COMMUNITY ASSOCIATIONS

- Catholic Charities of the Diocese of Albany, Albany, New York
- Albany Stratton VA Medical Center, Albany, New York
- Disabled American Veterans, Albany, New York
- Equinox, Albany, New York
- National Multiple Sclerosis Society, Northeastern New York Chapter (recipient of Leadership Award, 2000)

EDUCATION

Albany Law School of Union University, J.D. (1988)

State University of New York College at Potsdam, B.A., *magna cum laude* (1985)

BAR ADMISSIONS

State of Connecticut (1988)

State of New York (1989)

United States District Court for the Northern District of New York (1989)