HON. ANDREW J. PECK

U.S. Magistrate Judge, Southern District of New York (Ret.), Special Discovery Master

The Honorable Andrew J. Peck served with distinction for 23 years as a United States Magistrate Judge for the Southern District of New York, including a term as Chief Magistrate Judge from 2004 to 2005. During his tenure as a Magistrate Judge, he issued more than 1,500 published opinions and settled hundreds of cases.

Prior to his appointment to the bench, Judge Peck was in private practice for 17 years, with a focus on commercial and entertainment litigation, including copyright and trademark matters, with extensive trial experience. He is known for his innovative and efficient solutions to the challenges of information management, both within and outside the litigation context.

A recognized thought leader and frequent speaker on electronic discovery (e-discovery) issues, Judge Peck is recognized internationally for bringing e-discovery competency to the attention of both the judiciary and bar. He is widely described as the first judge to tackle the subject of e-discovery head on, most notably in the influential 1995 decision Anti-Monopoly v. Hasbro, in which Judge Peck found that "it is black letter law that computerized data is discoverable if relevant." Among his legacy ruling - the 2011 employment class action Monique Da Silva Moore, et. al. v. Publicis Groupe & MSL Group, stands out as the first judicial decision approving the use of technology-assisted review.

In 2018, the New York Law Journal called Judge Peck "one of e-discovery's most influential figures." His many accolades include being a Chambers ranked Recognized Practitioner for Litigation: E-Discovery in USA Nationwide. He was also honored by being named a Judicial E-Discovery Innovator in the Top 50 Innovators of the Last 50 Years by The American Lawyer magazine.

As an outgrowth of his e-discovery work, Judge Peck has handled matters regarding international General Data Protection (GDPR) and domestic data privacy, such as the California Consumer Privacy Act (CCPA) and the Bilateral Investment Promotion and Protection Agreement (BIPPA). With his experience, Judge Peck has the knowledge and expertise to hear disputes involving these types of issues.

Hon. Andrew J. Peck is available to arbitrate and mediate cases throughout the United States and also practices as a Special Discovery Master.

AREAS of EXPERIENCE

- Antitrust
- Appellate
- Attorney Fee / Malpractice
- Business / Corporate / Commercial
- Civil Rights
- Contracts

- Electronic Discovery / Electronically Stored Information (ESI)
- Employment / Labor
- Entertainment, Media & Sports
- Intellectual Property
  – Trademark & Copyright

- International Arbitration
- Mergers and Acquisitions
- Multidistrict Litigation (MDL)
- Securities / Financial Services

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KEY E-DISCOVERY OPINIONS

- Fischer v. Forrest, 14 Civ. 1304 & 1307, 2017 WL 773694 (S.D.N.Y. Feb. 28, 2017) (Rule 34)

- Hyles v. New York City, 10 Civ. 3119, 2016 WL 4077114 (S.D.N.Y. Aug. 1, 2016) (requesting party cannot force responding party to use TAR)

- Rio Tinto PLC v. Vale S.A., 14 Civ. 3040, 2015 WL 4367250 (S.D.N.Y. July 15, 2015) (appointing TAR Special Master)

- Da Silva Moore v. Publicis Groupe, 287 F.R.D. 182 (S.D.N.Y. 2012) (first judicial decision approving use of predictive coding aka TAR), aff'd, 2012 WL 1446534 (S.D.N.Y. Apr. 26, 2012)

- William A. Gross Constr. Assocs., Inc. v. Am. Mfrs. Mut. Ins. Co., 256 F.R.D. 179 (S.D.N.Y. 2009) (keyword search)

- In re NTL, Inc. Sec. Litig., 244 F.R.D. 179 (S.D.N.Y 2007) (possession, custody or control; spoliation & adverse inference instruction), aff'd, 2007 WL 1518632 (S.D.N.Y. May 17, 2007)

- Anti-Monopoly, Inc. v. Hasbro, Inc., 94 Civ. 2120, 1995 WL 649934 (S.D.N.Y. Nov. 3, 1995) (discoverability of computerized data)

REPRESENTATIVE INTELLECTUAL PROPERTY DECISIONS

- Janik v. SMG Media, Inc., 16 Civ. 7308, 2018 WL 345111 (S.D.N.Y. Jan. 10, 2018) (denial of defendant's motion for prevailing party attorneys' fees under the Copyright Act)

- Goldberger Co. v. Uneeda Doll Co., 16 Civ. 4630, 2017 WL 3098110 (S.D.N.Y. July 21, 2017) (denial of Rule 11 sanctions in trademark and false advertising case)

- Fischer v. Forrest, 14 Civ. 1304 & 1307, 2017 WL 2992663 (S.D.N.Y. July 14, 2017), 2017 WL128705 (S.D.N.Y Jan 13, 2017) (granting motion to dismiss and motion for summary judgment on copyright, trademark, Digital Millennium Copyright Act and false advertising claims)

- Crown Awards, Inc. v. Trophy Depot, Inc., 15 Civ. 1178, 2017 WL 564885 (S.D.N.Y. Feb. 13, 2017) (denial of Rule 11 sanctions in trademark and false advertising case)

- Wu v. John Wiley & Sons, Inc., 14 Civ. 6746, 2015 WL 5254885 (S.D.N.Y. Sept 10, 2015) (copyright infringement claim re photographs in textbooks; statute of limitations and damage issues)

- Denimafia Inc. v. New Balance Athletic Shoe, Inc., 12 Civ. 4112, 2014 WL 814532 (S.D.N.Y. Mar. 3, 2014) (trademark infringement)

- Mahoney v. Sony Music Entertainment, 12 Civ. 5045, 2013 WL 491526 (S.D.N.Y. Feb. 11, 2013) (contractual royalty dispute)

- Toto v. Sony Music Entertainment, 12 Civ. 1434, 2012 WL 6136365 (S.D.N.Y. Dec. 11, 2012) (contractual royalty dispute)

- Wi-Lan, Inc. v. LG Elec., Inc., 10 Civ. 432, 2011 WL 3279075 (S.D.N.Y. Aug. 2, 2011) (patent infringement, claim construction)

- All-Star Mktg. Group, LLC v. Media Brands Co., 10 Civ. 1764, 2011 WL 9381 (S.D.N.Y. Jan. 3, 2011) (statutory trademark damages)

- Burberry Ltd. v. Euro Moda, Inc., 08 Civ. 5781, 2009 WL 4432678 (S.D.N.Y. Dec. 4, 2009) (statutory trademark damages)

- Mowry v. Viacom Int'l, Inc., 03 Civ. 3090, 2005 WL 1793773 (S.D.N.Y. July 29, 2005) (summary judgment in copyright infringement action; no proof of access or striking similarity)

- Revlon Consumer Prods. Corp. v. Estee Lauder Cos., 00 Civ. 5960, 2003 WL 21751833 (S.D.N.Y. July 30, 2003) (patent claim construction)

LECTURES and PUBLICATIONS

- Participant, *Global Governance of A.I. Roundtable*, Dubai, UAE, 2019

- Keynote Judicial Panel and other panels, *Legal Tech New York*, New York, NY, 2018, 2019

- Speaker, New York State Bar Association Commercial and Federal Litigation Section Annual Meeting, New York, NY, 2019

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- Co-author, Forward, *TAR for Smart People* (3d edition 2018) written with John Tedennick
- Speaker, The Sedona Conference Working Group 1 Annual Meeting, Hollywood, CA, 2018
- Speaker, Exterro Infusion Conference, Portland, OR, 2018
- Speaker, Electronic Discovery Institute (EDI) Leadership Summit, Fort Lauderdale, FL 2018
- Speaker, Relativity Fest, Chicago, IL, 2018
- Speaker, Zapproved PREX (Preservation Excellence) Conference, Portland OR, 2018
- Speaker, *Hot Topics in Electronic Discovery* 2018, Practising Law Institute, (PLI), New York NY
- Speaker, Sandpiper Partners, *Hot Topics in E-Discovery Conference*, Dallas, TX, 2018
- Speaker, ABA Cross-Border Discovery Institute, Brussels, Belgium, 2018
- Speaker, Today's General Counsel & Institute, E-Discovery for the Corporate Market, New York, NY, 2018
- Speaker, E-Discovery Institute (EDI) Summer Meeting, New York, NY 2018
- Keynote Speaker, *Fresh Off the Bench – Judicial Perspective on E-Discovery*, New York State Bar Association CLE Program, Yankee Stadium, Bronx, NY, 2018
- Participant, *Duke Law – EDRM Workshop on TAR & GDPR*, Durham, NC, 2018
- Panelist, The Sedona Conference Mid-Year Meeting, Nashville, TN, 2018
- Panelist, *Sandpiper Partners GDPR: Impact Worldwide on Data Protection, Privacy, E-Discovery and Cybersecurity*, New York, NY, 2018
- Co-Author, *Creating Cooperation in Discovery: Musings on Building Trust*, New York Law Journal, 2018 (with Dawson Horn and David Kessler)
- Panelist, *American Bar Association Employment Rights and Responsibility Committee* Midwinter Meeting, Clearwater Beach, FL, 2018
- Keynote Speaker, *Arkfeld – ASU E-Discovery and Digital Evidence Conference*, Phoenix, AZ, 2018
- *Judge Andrew J. Peck, 1 of E-Discovery's Most Influential Figures, Retires from the Branch*, by Ian Lopez, New York Law Journal, 2018
- Panelist, The Sedona Conference Institute, Nashville, TN, 2018
- Author, *The Sedona Conference Federal Rule of Civil Procedure 34(b)(2) Primer: Practice Pointers for Responding to Discovery Requests*, 19 Sedona Conf. J. 447 (2018) (Judicial Participant)
- Panelist, *From Da Silva Moore to Microsoft: A Program Honoring Judge Peck and Judge Francis on the Occasion of Their Retirement from the Bench*, Cardozo Law School, 2018
- Panelist, American Bar Association Fair Labor Standards Legislation Committee Midwinter Meeting, Nassau, Bahamas, 2018
- Keynote Judicial Panel and 2 other panels, Legal Tech New York, 2018
- Judicial Participant and Editorial Style Committee member, *The Sedona Principles, Third Edition, 19 Sedona Conf. J. 1 (2018)*
- Author, *The Sedona Conference TAR Case Law Primer, 18 Sedona Conf. J. 1 (2017),* Judicial Observer
- Author, Foreword, *Perspectives on Predictive Coding* (edited by Jason Baron, Ralph Losey and Michael Berman), American Bar Association 2016
- Judicial Participant, *The Sedona Conference Commentary on Protection of Privileged ESI, 17 Sedona Conf. J. 95 (2015)*
- Co-Author, *E-Discovery: Where We've Been, Where We Are, Where We're Going*, 12 Ave Maria L. Rev. 1 (2014) (with Magistrate Judge John Facciola and Steven Teppler)
- Author, Search Foreword, *A Survey of Emerging Issues in Electronic Discovery*, 26 Regent Univ. L. Rev. 1, 2013-14
- Author, Forward: *Will Manual Document Review and Keyword Searches Be Replaced by Computer-assisted Coding?*, Law Technology News, 2011

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HONORS and AWARDS

▌ Chambers, Recognized Practitioner for Litigation, E-Discovery in USA - Nationwide, 2019

▌ American Lawyer Judicial E-Discovery Innovator, on its list of the Top 50 Innovators of the Last 50 Years

▌ Zapproved Pinnacle Award (for providing direction on how to handle the rapidly changing demands of electronic discovery in civil litigation, 2018

▌ Electronic Discovery Institute – Judicial Leadership Award, 2013

▌ Law Technology News – Champion of Technology Award, 2011

JUDICIAL EXPERIENCE

▌ United States Magistrate Judge, Southern District of New York, 1995 – 2018
  – Chief Magistrate Judge, 2004 - 2005

▌ Law Clerk to the Honorable Paul Roney, United States Court of Appeals, Eleventh (then Fifth) Circuit, 1977-1978

LEGAL EXPERIENCE

▌ Senior Counsel, DLA Piper, 2018 - Present

▌ Paul, Weiss, Rifkind, Wharton & Garrison, 1978 – 1995

PROFESSIONAL LICENSES and ADMISSIONS

▌ New York Bar Association

▌ United States Supreme Court

▌ United States Court of Appeals for the
  – Second Circuit through Eleventh Circuit

▌ United States Court of Appeals for the Federal Circuit

▌ United States District Court for the Southern District of New York

▌ United States District Court for the Eastern District of New York

PROFESSIONAL AFFILIATIONS and ASSOCIATIONS

▌ Co-Chair, SDNY-EDNY Local Rules Committee

▌ Second Circuit Federal-State Judicial Council

▌ Sedona Conference Working Group 1 (Electronic Discovery) Steering Committee

▌ Legaltech Educational Advisory Board

▌ Judicature Editorial Board, Bolch Judicial Institute, Duke Law School

▌ Georgetown Advanced Ediscovery Institute (AEDI) Advisory Board, Georgetown Law School

▌ Epiq Innovation Council

EDUCATION

▌ Duke Law School, J.D., 1977
  – Editor, Duke Law Journal

▌ Cornell University, A.B. with honors, 1974

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