
PRODUCTS LIABILITY IN NEW YORK

STRATEGY AND PRACTICE

SECOND EDITION

EDITORS-IN-CHIEF

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Rhonda Kay is Partner with the law firm of Gair, Gair, Conason, Steigman, Mackauf, Bloom & Rubinowitz, where she concentrates on negligence, malpractice, products liability and trial and appellate practice matters. A 1990 graduate of St. John's University School of Law, Ms. Kay was formerly a court attorney for the Appellate Division, Second Department. She is a member of the New York State Bar Association, the New York County Trial Lawyers Association and the New York County Lawyers Association (former secretary of the Torts Division, Appellate Advocacy Committee). She has authored several CLE books and law journal articles, and lectured extensively on products liability issues. She has also served on the Board of Editors of *Warren's Negligence in the New York Courts* since 2005 and was a member of the *New York Law Journal's* Smart Litigator Practice Q&A Board.

MATTHEW J. KELLY JR., ESQ.

Matthew J. Kelly Jr. is an Associate at Schnader Harrison Segal & Lewis. His experience includes product liability, complex commercial litigation, construction and municipal liability. He has defended clients' interests throughout litigation, from the pre-suit and pleadings stage through discovery disputes and arguments before the federal courts and state trial and appellate courts. His experience includes the defense of product liability claims from products as diverse as multi-ton cranes and tractors to the smallest of electrical components and toys. He also works with clients on various disputes in the construction industry, including disputes between owners, general contractors, and subcontractors throughout the construction process and also works with clients on surety relationships and coverage as well as contract interpretation. He is a member of the American Bar Association and New York State Bar Association. Mr. Kelly graduated from Boston College in 2001 and from Brooklyn Law School, *cum laude*, in 2005. At Brooklyn he was a Moot

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AMANDA KURLUK, ESQ.

Amanda Kuryluk graduated from Siena College in 2007 and received a dual degree in Political Science and Spanish. While at Siena she participated in Siena's Honors program, Model United Nations, and was a Summer Legal Fellow. She graduated from the Claude W. Pettit College of Law of Ohio Northern University in 2010, where she received her J.D. In law school, she was an Associate Editor of the *Ohio Northern Law Review Journal*, a member of Phi Alpha Delta, worked as a research assistant, and volunteered at Ohio Northern's Legal Clinic. Ms. Kuryluk is admitted to practice in New York and New Jersey. Upon graduation from law school, she joined the law firm of Thorn, Gershon, Tymann, and Bonanni, LLP, in Albany, New York, and focuses her practice on the areas of medical malpractice defense and products liability defense.

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Joseph LaValley, formerly of Myers & Myers, was a law clerk at the Jones Firm in Troy, New York. He was editor-in-chief of the *Albany Law Review*, and authored "The Calculus of Dissent: A Study of the Appellate Division" and "Showdown Over Snake Mountain." He received his J.D. in 2002, and became an attorney at the Appellate Division, Third Department. Mr. LaValley is a former member of the New York State Bar Association's Environmental Law Section.

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Dr. Malguarnera is a Technical Consultant with SEA, Ltd. in Columbus, Ohio. He holds a B.S. from West Point and a M.S. and Ph.D. in Mechanical Engineering from M.I.T. He is a licensed professional engineer in 29 states. For 25 years, Dr. Malguarnera has investigated and analyzed accidents involving machines, mechanical equipment and motor vehicles. He previously held positions in teaching, research and engineering at both the university and industry levels.

ERIN MEAD, ESQ.

Erin Mead is a 2000 graduate of the University at Albany. She graduated with honors and was a member of the Presidential Honor Society and the Golden Key Honor Society. Ms. Mead graduated *cum laude* in 2002 from Albany Law School, where she received her J.D. She was a Note and Comment Editor for the *Albany Law Journal of Science and Technology* (2001–2002) and was the recipient of the A. Lindsay & Olive B. O'Connor Foundation Scholarship (1999–2002). She is a member of Albany Law School's Justinian Society. Upon graduation from law school, Ms. Mead was an Appellate Court Attorney with the New York State Supreme Court, Appellate Division, Third Department, where she conducted extensive research and analysis of factual and legal issues in the preparation of preliminary reports in cases to be argued or submitted to the court. Later, she became an Associate at Thorn Gershon Tymann and Bonanni, LLP, and currently concentrates her practice on civil litigation and appeals with a focus on products liability, personal injury and insurance defense. Ms. Mead is a member of the American Bar Association, New York State Bar Association, Albany County Bar Association and the Capital District Trial Lawyers Association. She also serves on the Committee on Character and Fitness for the Third Judicial District.

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Harry Mooney is a Partner in the Buffalo law firm of Hurwitz & Fine, P.C., concentrating on the defense of products liability, professional liability and catastrophic injury claims. He received a B.A. from Canisius College, an M.A. from Seton Hall University and his J.D., *cum laude*, from the State University of New York at Buffalo School of Law. He is a member of the New York State Bar Association's Torts, Insurance and Compensation Law Section; the American Bar Association's Torts and Insurance Practice Section; the Defense Research Institute; the International Association of Defense Counsel; and the Professional Liability Underwriters Association. He is a past president of the Defense Trial Lawyers Association of Western New York.

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Charles Platto is the Principal of The Law Office of Charles Platto in New York and engages in domestic and international commercial and insurance arbitration and mediation and litigation consulting. He was previously head of the insurance practice group at Wiggin and Dana LLP, head of his own national insurance boutique firm based in Vermont and New Hampshire, and a litigation partner at Cahill Gordon & Reindel in

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Carl Schaerf is from the law firm of Schnader Harrison Segal & Lewis LLP. Mr. Schaerf concentrates on product liability, antitrust, Constitutional law and commercial litigation. He serves as regional counsel for a major electrical manufacturer, and appears regularly in courts throughout the Northeast and Mid-Atlantic regions. He has extensive litigation experience at both the trial and appellate levels, including several prominent verdicts and published appellate decisions. He also has litigated numerous environmental disputes in state and federal court. Mr. Schaerf also consults and lectures nationally on ERISA and non-ERISA health, life, accident and disability matters. He is a 1991 graduate of Fordham Law School.

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Tony Sears is a Partner in the firm of Ward Greenberg Heller & Reidy LLP in Rochester, New York, where his practice includes products liability, toxic tort and personal injury litigation. Mr. Sears has defended product manufacturers against claims involving a variety of products including joint replacements and orthopedic devices, other surgical implants, and over-the-counter products such as contact lens solution. He has defended clients in lawsuits alleging injuries arising from exposure to a variety of substances including silica, asbestos, and various chemical constituents, such as PCBs and sodium dichromate. He also has defended gas and electric utilities against claims involving serious personal injuries and property damage arising from explosions, fires, and other accidents. Mr. Sears graduated, *cum laude*, from Cornell Law School, where he served as a Note Editor for the *Cornell Law Review*. Mr. Sears is a contributing editor of *Product Liability Desk Reference, A Fifty-State Compendium* (Aspen).

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William P. Smith, Jr., concentrates his practice on the areas of civil litigation, personal injury, business litigation, labor, personal injury, business litigation, labor and employment, insurance and construction law. He has substantial experience litigating in both state and federal courts, as well as before a wide variety of boards and arbitrators. Mr. Smith's practice is widely varied with the common thread being a focus on litigated matters, including complex matters such as products liability, trademark infringement and toxic torts. Mr. Smith received his J.D. degree from Cornell Law School and his B.A. degree, *magna cum laude*, Phi Beta Kappa, from the State University of New York at Buffalo. He is a member of the Monroe County and New York State Bar Associations.

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Saul Wilensky is a Partner at Schnader Harrison Segal & Lewis, LLP, and practices in the areas of environmental law, product liability, and litigation services. He focuses his practice on the defense of product liability lawsuits relating to design, manufacture and repair of products and services. Mr. Wilensky regularly tries product liability and other complex matters throughout New York state and federal courts. He has been chair, vice chair and secretary of the New York State Bar Association's Torts, Insurance and Compensation Law Section, is a member of the American Bar Association, and the co-chair for downstate New York Membership for the International Association of Defense Counsel. He is noted for decisions in *Robinson v. Reed Prentice*; *Godoy v. Abamaster*; and *Liriano v. Hobart*. He has been listed in *The Best Lawyers in America* since 2007, is noted as a New York "Super Lawyer," and is listed in *Legal-International Who's Who of Business Lawyers*. Mr. Wilensky has also served as a faculty member on the IADC Trial Academy—2012. He received his B.A. degree from Hunter College, LL.B. degree from St. John's University School of Law, and LL.M. from New York University.