

POST-TRIAL PRACTICE AND PROCEDURES

**EDITOR-IN-CHIEF
DENNIS P. GLASCOTT, Esq.**

New York State Bar Association Continuing Legal Education publications are intended to provide current and accurate information to help attorneys maintain their professional competence. Publications are distributed with the understanding that NYSBA does not render any legal, accounting or other professional service. Attorneys using publications or orally conveyed information in dealing with a specific client's or their own legal matters should also research original sources of authority.

We consider the publication of any NYSBA practice book as the beginning of a dialogue with our readers. Periodic updates to this book will give us the opportunity to incorporate your suggestions regarding additions or corrections. Please send your comments to: CLE Publications Director, New York State Bar Association, One Elk Street, Albany, NY 12207.

Copyright 2010
New York State Bar Association
All rights reserved
ISBN: 1-57969-295-8
Product Number: 4175

TABLE OF CONTENTS

- Chapter 1 Addressing Defective Verdicts while the Jury Is Empaneled
Michael F. Perley, Esq.
- Chapter 2 Post-trial Motion Practice—Challenging the Verdict after the Jury Has Been Discharged
Thomas J. Maroney, Esq.
- Chapter 3 An Introduction to Post-verdict Setoffs: Collateral Source Reductions under CPLR 4545
Barbara DeCrow Goldberg, Esq.
- Chapter 4 Setoffs under General Obligations Law § 15-108
Dennis P. Glascott, Esq.
Joseph M. Hanna, Esq.
- Chapter 5 Reductions to a Lost Earnings Claim in Certain Malpractice Actions
Brendan F. Baynes, Esq.
- Chapter 6 Collateral Sources and No-Fault Insurance
Gary A. Cusano, Esq.
- Chapter 7 Periodic Payments of Future Damages Awards: An Overview of CPLR Articles 50-A and 50-B
J. Peter Coll, Jr., Esq.
Richard A. Jacobsen, Esq.
- Chapter 8 Interest on Damage Awards and Money Judgments
Eileen E. Buholtz, Esq.
- Chapter 9 Preparing and Entering Judgments and Bills of Costs in New York
Saul Wilensky, Esq.
Carl J. Schaerf, Esq.
- Chapter 10 Appellate Considerations for Post-trial Motions to Set Aside a Jury Verdict
Matthew S. Lerner, Esq.
- Chapter 11 Post-trial Motions: A View from the Bench
Justice Sallie Manzanet-Daniels

DETAILED TABLE OF CONTENTS

Preface	xiii
About the Contributors	xv

Chapter 1 Addressing Defective Verdicts while the Jury Is Empaneled

Michael F. Perley, Esq.

[1.0]	I.	Introduction	1-1
[1.1]	II.	Delivery of Verdict.....	1-1
[1.2]		A. Types of Verdicts and General Requirements	1-1
[1.3]		B. Polling the Jury	1-2
[1.4]	III.	Identifying Defective Verdicts	1-2
[1.5]		A. Timing	1-3
[1.6]		B. Verdicts that May Require Additional Deliberation	1-3
[1.7]		1. Incomplete, Inaccurate and Nonconforming Verdicts	1-3
[1.8]		2. Inconsistent Verdicts	1-5
[1.9]		3. Compromise and Quotient Verdicts	1-5
[1.10]	IV.	Practice Considerations	1-6
[1.11]		A. Quick Action Requires a Keen Focus	1-6
[1.12]		B. Concessions Can Create Inconsistency	1-6
[1.13]		C. Supplemental Instructions Can Alleviate Juror Confusion	1-7
[1.14]	V.	Conclusion.....	1-7

Chapter 2 Post-trial Motion Practice—Challenging the Verdict after the Jury Has Been Discharged

Thomas J. Maroney, Esq.

[2.0]	I.	Scope of Post-trial Motions	2-1
[2.1]		A. Post-trial Relief Based on Motions or Claims Made during Trial.....	2-2
[2.2]		1. Motion for Continuance or New Trial.....	2-2
[2.3]		2. Inconsistent Verdict Claim	2-3
[2.4]		B. Relief Based on Post-trial Motions.....	2-3
[2.5]		1. Verdicts Rendered Contrary to Law or Against Weight of Evidence.....	2-4
[2.6]		2. Excessive or Inadequate Verdicts.....	2-5
[2.7]		3. Misconduct of the Court, Counsel or a Party.....	2-8

[2.8]	II.	Procedural Considerations	2-10
[2.9]	A.	Timing of Post-trial Motion.....	2-10
[2.10]	B.	Form of Post-trial Motion.....	2-11
[2.11]	C.	Stay of Execution of Judgment.....	2-12

Chapter 3 An Introduction to Post-verdict Setoffs: Collateral Source Reductions under CPLR 4545

Barbara DeCrow Goldberg, Esq.

[3.0]	I.	Overview	3-1
[3.1]	II.	Applicable Statute: CPLR 4545	3-1
[3.2]	A.	History	3-1
[3.3]	B.	Current Statute.....	3-2
[3.4]	III.	Establishing a Defendant’s Entitlement to a Collateral Source Setoff.....	3-3
[3.5]	A.	Timeliness.....	3-3
[3.6]	B.	Discovery.....	3-4
[3.7]	IV.	Correspondence Requirement.....	3-6
[3.8]	A.	Pension Benefits	3-7
[3.9]	B.	Insurance Proceeds	3-9
[3.10]	C.	Social Security Payments	3-9
[3.11]	D.	No-Fault Benefits	3-10
[3.12]	E.	Other Types of Collateral Source Reimbursement.....	3-11
[3.13]	V.	Reasonable Certainty Requirement	3-11
[3.14]	A.	Future Social Security Benefits	3-12
[3.15]	B.	Private Medical Insurance	3-14
[3.16]	VI.	Collateral Source Hearing	3-16
[3.17]	A.	Establishing Defendant’s Entitlement to a Hearing	3-17
[3.18]	B.	Procedure and Proof at the Hearing.....	3-18
[3.19]	C.	Order of Applying Setoffs	3-19
[3.20]	VII.	The Lien Problem and Aggressive Insurers	3-20
[3.21]	A.	Insurer’s Right to Recover under Equitable Subrogation.....	3-21
[3.22]	B.	Appellate Division and Trial Court Decisions Concerning Subrogation	3-23
[3.23]	C.	Court of Appeals’ Decisions Regarding Subrogation.....	3-25
[3.24]	VIII.	Must the Plaintiff Actually Be Receiving Benefits?	3-27
[3.25]	IX.	Conclusion	3-28

Chapter 4 Setoffs under General Obligations Law § 15-108

Dennis P. Glascott, Esq.

Joseph M. Hanna, Esq.

[4.0]	I.	Overview	4-1
[4.1]	II.	Purpose, Scope and Procedural Requirements	4-2
[4.2]	A.	Effect of § 15-108 on Indemnification Claims	4-3
[4.3]	B.	Exclusion of Certain Releases and Cases from Setoff Provisions.....	4-5
[4.4]	C.	Procedure for Preserving and Proving Entitlement to the § 15-108 Setoff	4-6
[4.5]	III.	Application of § 15-108.....	4-7
[4.6]	A.	Where One of Two Tortfeasors Settles before Judgment	4-7
[4.7]	B.	Where Two or More Tortfeasors Settle before Judgment	4-8
[4.8]	IV.	Seminal Cases.....	4-10
[4.9]	A.	Effects of Pretrial Settlements	4-10
[4.10]	B.	Adoption of Aggregate Approach for Calculating Setoffs	4-11
[4.11]	C.	Effect of Joint-and-Several Liability Provisions on Computation of Setoffs.....	4-12
[4.12]	D.	Calculation of Prejudgment Interest in Wrongful Death Case	4-14
[4.13]	E.	Apportionment of Fault among Bankrupt Defendants	4-16
[4.14]	V.	Conclusion.....	4-17

Chapter 5 Reductions to a Lost Earnings Claim in Certain Malpractice Actions

Brendan F. Baynes, Esq.

[5.0]	I.	Overview	5-1
[5.1]	II.	Procedural Requirements.....	5-1
[5.2]	III.	Wrongful Death Actions.....	5-2
[5.3]	IV.	Hybrid Cases	5-3

Chapter 6 Collateral Sources and No-Fault Insurance

Gary A. Cusano, Esq.

[6.0]	I.	Introduction	6-1
[6.1]	II.	No-Fault Insurance and Basic Economic Loss.....	6-1
[6.2]	III.	Scope of Coverage.....	6-2
[6.3]	A.	PIP and Applicability of the Collateral Source Rule.....	6-2
[6.4]	B.	APIP.....	6-3
[6.5]	C.	OBEL.....	6-4
[6.6]	IV.	Conclusion	6-5

Chapter 7 Periodic Payments of Future Damages Awards: An Overview of CPLR Articles 50-A and 50-B

J. Peter Coll, Jr., Esq.

Richard A. Jacobsen, Esq.

[7.0]	I.	Background.....	7-1
[7.1]	II.	Amendment of Article 50-A.....	7-2
[7.2]	III.	Simplified Operation of Amended Article 50-A ...	7-4
[7.3]	A.	Elimination of Structured Judgments in Certain Instances.....	7-6
[7.4]	B.	Future Pain-and-Suffering Damages	7-6
[7.5]	C.	Future Economic and Pecuniary Damages	7-8
[7.6]	D.	Specified Discount Rate	7-9
[7.7]	E.	Setoffs and Adjustments	7-11
[7.8]	F.	Operation of Annuity Contract and Continuation of Payments	7-13
[7.9]	IV.	Analysis of Remaining Article 50-A Provisions ...	7-14
[7.10]	A.	Security for Stream of Payments	7-14
[7.11]	B.	Sanctions for Failure to Make Annuity Payments.....	7-16
[7.12]	C.	Conversion of Structured Payments into Lump-Sum Payment	7-17
[7.13]	D.	Settlements.....	7-18
[7.14]	E.	Assignment of Periodic Installments.....	7-19
[7.15]	V.	Operation of Article 50-B and Judicial Interpretation	7-19
[7.16]	A.	Overview of Article 50-B Operation	7-19
[7.17]	B.	Language Regarding Lump-Sum Payments under CPLR 5041	7-21
[7.18]	1.	Calculation of Lump-Sum Payments for Attorneys' Fees.....	7-22

[7.19]	2.	Determining the Full Value of the Annuity and Structured Payments Schedule	7-24
[7.20]	3.	Discount Rate and Final Determination of Annuity Payments	7-27
[7.21]	4.	Modification of Structured Judgment.....	7-29
[7.22]	C.	Effect of Death of a Judgment Creditor	7-29
[7.23]	VI.	Conclusion.....	7-30

Chapter 8 Interest on Damage Awards and Money Judgments

Eileen E. Buholtz, Esq.

[8.0]	I.	Availability of Interest on Money Judgments in State Court.....	8-1
[8.1]	A.	Categories of Interest.....	8-1
[8.2]	B.	Comparing Federal Court Actions and Federal-Question Claims Heard in State Courts	8-1
[8.3]	II.	Pre-decision (Category 1) Interest.....	8-2
[8.4]	A.	Calculating Interest.....	8-3
[8.5]	B.	Other Settings	8-3
[8.6]	C.	Waiver or Denial of Category 1 Interest	8-4
[8.7]	III.	Decision-to-Judgment (Category 2) Interest	8-5
[8.8]	A.	Calculating Interest.....	8-5
[8.9]	B.	Negligence vs. Liability in No-Fault Cases....	8-6
[8.10]	C.	Other Circumstances	8-7
[8.11]	D.	Post-verdict.....	8-7
[8.12]	E.	Use of Special Verdicts	8-8
[8.13]	F.	Delay Between Decision and Judgment	8-8
[8.14]	IV.	Post-judgment (Category 3) Interest	8-9
[8.15]	A.	Money Judgments and Orders Directing Payment	8-9
[8.16]	B.	Purpose	8-9
[8.17]	C.	Structured Judgments	8-10
[8.18]	D.	Accrual of Post-judgment Interest.....	8-10
[8.19]	E.	Exceptions	8-11
[8.20]	V.	Interest in Wrongful Death Actions	8-12
[8.21]	A.	Pre-verdict Interest	8-12
[8.22]	B.	Special Verdicts.....	8-13
[8.23]	C.	Post-verdict Interest.....	8-13
[8.24]	VI.	Tolling Interest	8-14
[8.25]	A.	General Rule.....	8-14
[8.26]	B.	Tenders	8-15

[8.27]	C.	Tolling Interest in Eminent Domain Proceedings.....	8-17
[8.28]	VII.	Rate of Interest.....	8-17
[8.29]	A.	General Rule	8-17
[8.30]	B.	Where Interest Is Otherwise Provided by Statute	8-18
[8.31]	C.	Applicable Rates in Discretionary Cases.....	8-19
[8.32]	D.	Compounding of Interest	8-19
[8.33]	VIII.	Motions with Regard to Interest	8-20

Chapter 9 Preparing and Entering Judgments and Bills of Costs in New York

Saul Wilensky, Esq.

Carl J. Schaerf, Esq.

[9.0]	I.	Preparing Judgment	9-1
[9.1]	A.	Who Prepares the Judgment?	9-2
[9.2]	B.	Terms of the Judgment	9-2
[9.3]	C.	Judicial Review/Entry of Judgment.....	9-3
[9.4]	D.	Timing of Submission	9-4
[9.5]	II.	Preparing a Bill of Costs.....	9-5
[9.6]	A.	Fees	9-5
[9.7]	B.	Costs	9-5
[9.8]	C.	Disbursements	9-6
[9.9]	III.	Presentation to the Judgment Clerk and Taxation of Costs and Disbursements	9-9
[9.10]	IV.	The Judgment Roll.....	9-10
[9.11]	V.	Entry of Judgment	9-11
[9.12]	VI.	Costs upon Frivolous Claims.....	9-11
[9.13]	VII.	Security for Costs	9-13
Appendix		Sample Judgment: New York State Court.....	9-17

Chapter 10 Appellate Considerations for Post-trial Motions to Set Aside a Jury Verdict

Matthew S. Lerner, Esq.

[10.0]	I.	Introduction	10-1
[10.1]	II.	Grounds for Setting Aside a Jury Verdict	10-1
[10.2]	A.	Legal Sufficiency.....	10-2
[10.3]	B.	Weight of the Evidence	10-3
[10.4]	C.	Interests of Justice	10-5
[10.5]	D.	Fraud and Misrepresentation	10-6

[10.6]	E. Inadequate or Excessive Damage Awards	10-7
[10.7]	F. Juror Confusion	10-9
[10.8]	III. Preservation for Appellate Review	10-14
[10.9]	IV. Scope of Court of Appeals' Review	10-16
[10.10]	V. Conclusion	10-17

Chapter 11 Post-trial Motions: A View from the Bench

Justice Sallie Manzanet-Daniels

[11.0]	I. Preparation.....	11-1
[11.1]	II. Standards of Review	11-3
[11.2]	III. Discretion of the Court	11-5
[11.3]	IV. Directing the Entry of Judgment	11-7
[11.4]	V. Setting Aside the Verdict as Against the Weight of the Evidence	11-8

Table of Authorities

Index

PREFACE

Regardless of their experience, most trial counsel experience a few moments of disquiet just before a verdict is rendered. It's a time of reflection, during which self-doubt and humility often surface.

There is no way to adequately describe the feeling of satisfaction that comes with a verdict in your favor, or the dark despair that flows from an unfavorable verdict. After years of pretrial discovery, weeks or months of trial preparation and countless sleep-deprived nights during trial, a verdict represents far more than a determination of negligence. A verdict in your favor validates both your trial strategy and your ability as a trial attorney. Conversely, an adverse verdict haunts your subconscious for years, forcing you to languish in self-doubt as you endlessly replay every moment of the trial in search of what went wrong.

Although the importance of the verdict cannot be ignored, a wise practitioner knows that the trial is but one phase of the long civil litigation process. Even before the appellate process begins, the parties may seek various forms of relief from the trial court. The form of the judgment, the amount of interest to be awarded or the offset, if any, to be allowed are examples of the post-trial issues that present counsel with continued opportunities to advance his or her client's position. Indeed, the party that lost at trial might convince the court to set aside a verdict and direct that judgment be entered in favor of the losing party, leaving the prevailing party at trial to ponder the victory that is no more.

Notwithstanding the endless books and articles available to help the practitioner with trying a civil case to verdict, there is a dearth of materials to assist with the complex issues that may arise after verdict. This book was inspired by the New York State Bar Association's longstanding commitment to the bench and the bar to fill the void by offering a comprehensive guide for post-trial practice and procedure.

This book was written by successful trial attorneys from across New York State. The willingness of the authors to dedicate their time and talents to this project is greatly appreciated. As editor-in-chief, it has been my distinct honor to work with this talented group of attorneys.

Finally, I wish to express my gratitude to Dan McMahon and the staff at the NYSBA for their kind guidance and support with this project.

ABOUT THE EDITOR-IN-CHIEF

DENNIS P. GLASCOTT, ESQ.

Dennis P. Glascott is a partner in the Litigation Department of Goldberg Segalla LLP, where he focuses his practice on complex and catastrophic personal injury litigation. He is an active trial attorney, with 25 years of trial experience in the state and federal courts across New York State.

Mr. Glascott is a member of the Defense Research Institute (DRI), the New York State Bar Association, Erie County Bar Association and Western Trial Lawyer's Association and Defense Trial Lawyers Association of Western New York. He also has served on the Executive Committee for the New York State Bar Association's Tort, Insurance and Compensation Law Section.

Mr. Glascott is a frequent writer and lecturer on various topics, including trial techniques, construction site personal injury, premises liability and ethics. He is a former member of the Judge Advocate General's Corps of the U.S. Navy, having attained the rank of lieutenant commander before entering private practice.

ABOUT THE CONTRIBUTORS

BRENDAN F. BAYNES, ESQ.

Brendan F. Baynes is a member of Baynes Law Firm, PLLC, which he founded in 2009, following 22 years of practicing with numerous partners in firms in Albany, New York. He specializes in injury litigation and has tried many cases to verdict. He currently supplements his practice with services such as wills, traffic tickets, closings and counseling to clients.

He is a member of NYSBA's House of Delegates, treasurer of NYSBA's Torts, Insurance and Compensation Law Section and serves on NYSBA's Committee on Character and Fitness. He previously served as an Executive Committee member of NYSBA's Third Judicial District. He is also a member of the Capital District Bar Association.

Mr. Baynes received his undergraduate degree from St. Lawrence University and his J.D. from Albany Law School, Union College.

EILEEN E. BUHOLTZ, ESQ.

Eileen Buholtz is a member of Connors & Corcoran, PLLC, in Rochester where she concentrates her practice in commercial and insurance defense litigation. She received her J.D. degree from Syracuse University and her undergraduate degree from the University of Rochester's Eastman School of Music.

She is past chair of NYSBA's Torts, Insurance and Compensation Law Section and has served on NYSBA's House of Delegates, President's Committee for Access to Justice, New York State Conference of Bar Leaders, Law Office and Economic Management Committee and CPLR Committee. She is a member of the American Board of Trial Advocates (ABOTA), the American Bar Association (ABA), the Defense Research Institute (DRI) and the Monroe County Bar Association (MCBA). She is past chair of the MCBA's President's Commission on Access to Justice. Ms. Buholtz also is past president of the Greater Rochester Association for Women Attorneys (GRAWA) and has chaired its legislative, media, CLE and judicial evaluation committees. She has served several terms as GRAWA's delegate to the Women's Bar Association of the State of New York (WBASNY) and has served as secretary, treasurer and vice-president of WBASNY.

She has lectured for NYSBA, MCBA, GRAWA, Lorman Education Services and National Business Institute on topics involving civil litigation, insurance law and labor law. As an active member in her community, Ms. Buholtz has received several awards for her leadership and pro bono service.

J. PETER COLL, JR., ESQ.

Peter Coll is a partner and the senior member of Orrick, Herrington & Sutcliffe's Litigation Group. Mr. Coll has tried major, complex cases in New York state and federal courts and throughout the United States, including Washington, the Virgin Islands, California and Arizona. During his 40-year litigation and trial career, he has argued appeals before the U.S. Supreme Court, the highest-level appellate courts of New York and New Jersey and seven federal circuit courts of appeal.

He received his undergraduate degree from Duke University and his J.D. from Georgetown University, where he was an editor of the law journal.

GARY A. CUSANO, ESQ.

Gary A. Cusano started his own insurance defense firm in 2009 in Westchester County after 25 years of insurance defense litigation experience working for insurance companies and private firms. He has litigated

high-exposure tort cases involving automobiles, construction site accidents, products liability, multiparty large-scale property damage cases, toxic tort and dental malpractice. He also litigates insurance coverage and contract matters. Previously, he was the managing trial attorney of CNA Insurance Company's staff counsel program in Tarrytown, New York.

Mr. Cusano received his J.D. from Brooklyn Law School in 1985 and is admitted to practice in both state and federal courts. He is a past chairman of NYSBA's Torts, Insurance and Compensation Law Section; a member of the Panel of Arbitrators on Insurance Coverage for AAA; and a certified CLE lecturer for the New York State and Bronx County Bar Associations. He also is a member of the New York State Bar Association and currently serves on its House of Delegates.

BARBARA DECROW GOLDBERG, ESQ.

Barbara DeCrow Goldberg is a member of Mauro Goldberg & Lilling, LLP, in Great Neck, New York, which focuses its practice on appellate advocacy and litigation strategy. She is a former partner and head of the Appeals Department at Clearwater & Bell, a New York City firm that specializes in the defense of physicians and hospitals.

With more than 20 years of experience in appellate litigation, Ms. Goldberg has handled a wide variety of appeals and is noted for several important decisions in the areas of medical malpractice, negligence, workers' compensation and products liability law.

Ms. Goldberg is a magna cum laude graduate of Radcliffe College and obtained her law degree from Boston University School of Law, where she graduated cum laude. She is the author of several articles on products liability, medical malpractice and evidentiary issues and has frequently lectured at continuing education programs. In addition, Ms. Goldberg is a member of the OCA's Advisory Committee on Civil Practice.

JOSEPH M. HANNA, ESQ.

Joseph M. Hanna is a partner in the Buffalo, New York office of Goldberg Segalla LLP, which has ten offices throughout New York, New Jersey, Connecticut and Pennsylvania. His practice focuses on commercial litigation with an emphasis on sports and entertainment law, construction law and intellectual property litigation.

In 2010, Mr. Hanna received NYSBA's Outstanding Young Lawyer Award. The award is presented annually to a young lawyer who has ren-

dered outstanding service to both the community and the legal profession and has a distinguished record of commitment to the finest traditions of the New York State Bar through public service and professional activities. He was awarded this distinction and honor for his commitment to diversity in organizing various minority bar programs throughout the country, authoring articles on minority attorney retention and spearheading the creation of a comprehensive database of more than 500 minority law organizations throughout the United States.

Mr. Hanna is chairperson of Success in the City, a diversity networking event, and is founder and president of Bunkers in Baghdad, Inc., a not-for-profit organization that collects golf equipment for distribution to soldiers stationed in combat zones overseas and to injured veterans throughout the United States.

RICHARD A. JACOBSEN, ESQ.

Richard Jacobsen is a senior associate in the New York City office of Orrick, Herrington & Sutcliffe, LLP, where he practice in the litigation department. He received his J.D. from Boston University College of Law.

MATTHEW S. LERNER, ESQ.

Matthew Lerner is a partner in the Albany office of Goldberg Segalla, LLP. He chairs the firm's Appellate Advocacy Group. He concentrates on appellate practice, construction defect litigation, construction work litigation, insurance coverage litigation and insurance defense.

Before joining Goldberg Segalla, Mr. Lerner was a court attorney on the New York Court of Appeals' Central Staff, where he wrote confidential memoranda to the judges and the clerk of the court concerning civil motions for leave to appeal, appeals as of right and certified questions of law. Mr. Lerner has successfully argued appeals in all four Appellate Division departments, the New York Court of Appeals and the U.S. Court of Appeals for the Second Circuit.

Mr. Lerner is a member of the New York State Bar Association and the Defense Research Institute. He received his undergraduate degree from the University at Buffalo and his law degree from the University at Buffalo Law School.

JUSTICE SALLIE MANZANET-DANIELS

The Honorable Sallie Manzanet-Daniels presides as Associate Justice of the Appellate Division, First Department, having been appointed in October 2009. Her appointment represents the first time a Latina woman has been named to sit in any department in the history of the Appellate Division.

In 2001, Justice Manzanet-Daniels was elected to the New York State Supreme Court, where she presided in the Civil Term until her elevation. In 1999, Judge Manzanet was elected to the Civil Court of the City of New York. Prior to ascending to the bench, she served as law clerk for both Justices Luis A. Gonzalez and Frank Torres (three years respectively). Judge Manzanet-Daniels began her legal career as a criminal defense practitioner for the Legal Aid Society in Bronx County.

Judge Manzanet-Daniels obtained her law degree from Hofstra University School of Law and her undergraduate degree from Marymount Manhattan College.

THOMAS J. MARONEY, ESQ.

Thomas Maroney is a founding partner of Maroney O'Connor LLP in downtown Manhattan. A graduate of Siena College and St. John's University School of Law, Mr. Maroney has spent the last 29 years dedicating his practice to high-exposure, complex and multiparty civil defense litigation.

Mr. Maroney is the New York State representative to the Defense Research Institute. He serves as vice-chair of the Executive Committee of NYSBA's Torts, Insurance and Compensation Law Section and will serve as Section chair in 2011. Mr. Maroney also chairs the board of directors of the Defense Association of New York and is a past president. By appointment of the presiding judge of the Appellate Division, First Department, Mr. Maroney has served as a member of the First Department's Character and Fitness Committee for 12 years. Mr. Maroney also is a member of the Torts Advisory Committee for New York County.

He is a frequent lecturer on civil trial practice, negotiating strategies and alternative dispute resolution.

MICHAEL F. PERLEY, ESQ.

Michael F. Perley is a member of Hurwitz & Fine, P.C., in Buffalo, where he heads the firm's 24-Hour Emergency Response Team and is regularly engaged in litigation related to complex catastrophic property damage and bodily injury.

Mr. Perley is a past director of the Western New York Trial Lawyers Association, a member of the Defense Research Institute and president of the Buffalo chapter of the American Board of Trial Advocates. He is a member of the Municipal and School Law Committee and the Committee on Eminent Domain and Tax Certiorari of the Erie County Bar Association and a member of NYSBA's Municipal Law and Torts, Insurance and Compensation Law Sections.

Mr. Perley received his J.D. degree from Duke University School of Law and graduated magna cum laude with a B.A. from the College of Holy Cross.

CARL J. SCHAERF, ESQ.

Carl Schaerf specializes in product liability, commercial and antitrust litigation. He also defends attorneys, accountants, estate planners, architects, engineers and builders who are sued under theories of professional malpractice. 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's other areas of practice include health, life, accident and disability practice; commercial, business and securities litigation practice; and complex tort practice.

SAUL WILENSKY, ESQ.

Saul Wilensky specializes in the defense of product liability lawsuits relating to design, manufacture and repair of products and services. He has been involved in several leading New York appellate decisions concerning swimming pools, punch presses, commercial food preparation equipment, FELA, automobiles, electrical equipment, printing equipment, commercial and household laundry equipment, aviation, ship design, waste disposal equipment, consumer appliances, asbestos, hazardous materials, toxic torts and industrial hygiene. Mr. Wilensky regularly tries product liability and other complex matters throughout New York's state and federal courts.