

**THE PLAINTIFF'S
PERSONAL INJURY
ACTION
IN NEW YORK STATE**

**EDITOR-IN-CHIEF
PATRICK J. HIGGINS, ESQ.**

VOLUME ONE

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Justice Paul A. Victor

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**SECTION IX—LAW PRACTICE MANAGEMENT FOR THE
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Chapter 43 Practice Management: The Rule of Three

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ROBERT T. DECATALDO, ESQ.

Robert T. DeCataldo was appointed chief clerk of the New York State Court of Claims in November 2005. Mr. DeCataldo began his career with the court as principal law clerk to the Honorable Richard E. Sise in January 2001 and continued in that position until his appointment as chief clerk. He is a member of the National Association for Court Management.

After earning a B.A. in political science in 1980 from Siena College and his J.D. in 1983 from Western New England College School of Law, Mr. DeCataldo was admitted to practice law in Massachusetts in 1983 and in New York in 1984; he is also admitted to practice in the Northern and Western Districts of New York. He began his career in Massachusetts and returned to the Capital District, where he practiced with DiFabio, Tommaney and Legnard and then Harvey & Harvey, Mumford & Kingsley before joining the Civil Service Employees Association as associate coun-

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sel. In 1994 Mr. DeCataldo and his wife opened DeCataldo and DeCataldo, where he practiced until joining the court.

LAURENCE M. DEUTSCH, ESQ.

Laurence M. Deutsch is a partner at North & Deutsch LLP (New York, New York) where he concentrates in medical malpractice litigation.

Mr. Deutsch obtained his J.D. from the University of Chicago Law School. Admitted to the New York Bar in 1998, he began practice at Whiteman Osterman (Albany, New York) in environmental and corporate law. Mr. Deutsch then became an Associate at the medical malpractice defense firm of Bower & Gardner (New York, New York) through the dissolution of that firm, thereafter becoming Senior Trial Attorney at Breitter & Hoffman, a medical malpractice defense firm.

Before the formation of North & Deutsch LLP, Mr. Deutsch was the Principal of Laurence M. Deutsch Law Firm, P.C. (New York, New York), engaged in plaintiffs' medical malpractice litigation.

Mr. Deutsch is the author of *Medical Records for Attorneys* (American Bar Association, 2001), a full-length treatise on medical records and malpractice litigation. He has been co-author of the "Damages" chapter of the New York State Trial Lawyers Association *Decisions* annual update (2005, 2006, 2012 and 2013 editions) and contributing author to the New York State Bar Association's *Environmental Law Handbook* (1992).

Mr. Deutsch is an active CLE speaker for the New York State Trial Lawyers Association and National Business Institute, on topics of trial practice, medical malpractice litigation, evidence and expert witness issues.

Mr. Deutsch is an active member of the New York City Bar Association Medical Malpractice Committee, an invited group comprised of several sitting New York State Supreme Court judges and representatives of the principal medical malpractice firms in New York City.

EILEEN F. FAZZONE, ESQ.

Eileen F. Fazzone is a Principal Court Attorney for the New York State Court of Claims. She provides counsel to the Clerk of the Court on issues regarding the operation and management of court facilities, including the leasing of space and the procurement of goods and services. In addition, she provides legal support to the Clerk's staff, assists attorneys and pro se

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litigants on jurisdictional and procedural matters, and performs legal research and writing for judges of the court statewide. She is a liaison to the Unified Court System's Americans with Disabilities Act Committee and coordinates the Court of Claims' participation in the Unified Court System Quality Service Program. Prior to joining the Court of Claims in 1997, Ms. Fazzone spent four years as a court attorney on the central staff of the New York State Court of Appeals. She received her B.A. from St. Lawrence University and her J.D. from Albany Law School.

JAMES S. FIEDLER, ESQ.

James S. Fiedler, Esq., is Managing Attorney of the New York State Insurance Fund (NYSIF), the largest workers' compensation insurer in the state. Mr. Fiedler has been an attorney at NYSIF for over 25 years, concentrating in the areas of third-party/subrogation, employer liability, and premium collection. Mr. Fiedler has been a frequent presenter at various workers' compensation seminars, such as "What Are You Going to Do about That Lien?," Nassau Academy of Law (2005), and "Kelly and the Workers' Compensation Interplay," in connection with the New York State Bar Association Continuing Legal Education program on Premises Liability/Construction Work-Site Accidents (1996). Mr. Fiedler is a contributing author to the forthcoming NYSBA Continuing Legal Education Publication on Workers' Compensation Law.

DONALD P. FORD, JR., ESQ.

Donald P. Ford, Jr., devotes the majority of his time to insurance defense, medical malpractice insurance coverage and personal injury litigation. Mr. Ford is active in all courts in upstate New York and is admitted in all state courts, the U.S. District Court for the Northern and Western Districts of New York and the U. S. Court of Appeals, Second Circuit.

Mr. Ford is a member of the Albany County Bar Association, New York State Bar Association and Federation of Insurance Counsel. He is an active member of the Torts, Insurance and Compensation Law Section of the New York State Bar Association, serving as Upstate CLE Program Chairperson. As such, Mr. Ford has chaired and lectured at annual programs on "Recent Developments in Personal Injury Litigation," "Recent Developments on Personal Injury Law" and "Automobile Insurance Law and Practice." In addition, Mr. Ford has authored a chapter on "Underinsured Coverage" for an insurance monograph, to be published by the New York State Bar Association. He has also lectured extensively throughout the state of New York about underinsured coverage and has published on the subject of civil rights violations under 42 U.S.C. § 1983.

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Mr. Ford has practiced law with Thuillez, Ford, Gold, Butler & Monroe, LLP and its predecessor firms for over 30 years. He represents various insurers and national corporations in serious personal injury matters, including claims involving negligence, products liability, medical malpractice, premises liability and civil rights claims. He received his B.A. from Boston College, *summa cum laude* and Phi Beta Kappa, and his J.D. from Albany Law School.

HAL M. FRIEDMAN, ESQ.

Hal Friedman is an Associate Attorney with the New York State Insurance Fund. A graduate of New York Law School, Mr. Friedman has worked for the Fund for over 25 years, focusing on the collection of workers' compensation liens. He has acquired extensive knowledge of the rules, regulations and court decisions governing the determination of which workers' compensation payments are subject to being claimed as liens on third-party recoveries and what percentage of these liens must be contributed to pay the Fund's share of the recoveries' litigation costs. He has taught CLE courses on this subject. He is married and lives in Park Slope, Brooklyn.

RICHARD H. FRIEDMAN, ESQ.

Rick Friedman conducts a national trial practice from offices in Bremerton, Washington, and Anchorage, Alaska. He is a member of the Inner Circle of Advocates and author of *Rules of the Road: A Plaintiff Lawyer's Guide to Proving Liability*; *Polarizing the Case: Exposing and Defeating the Malingering Myth*; *Rick Friedman on Becoming a Trial Lawyer*; and *The Elements of Trial*. They are available from Trial Guides at www.trialguides.com.

EVAN M. GOLDBERG, ESQ.

A partner at Trolman, Glaser & Lichtman, P.C., in New York City, Evan M. Goldberg has been repeatedly recognized as a *Super Lawyer* by a national ranking organization. He focuses his practice on negligence, products liability, medical malpractice, construction, automobile and premises accidents, lead-paint litigation and wrongful death. Mr. Goldberg is an Executive Committee Member of the New York State Bar Association, a Fellow of the New York Bar Foundation, Past Chair of the NYSBA's Trial Lawyers Section, Chair of the Section's Trial Practice and Membership Committees, and the 9th Judicial District Representative for the Section. He also serves on the Torts and Federal Legislative Priorities Committees for the NYSBA. He is an Officer and Director of the New

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York State Trial Lawyers Association and is a member of its Medical Malpractice Taskforce and Legislative Committees; he is a Dean of the New York State Trial Lawyers Institute. He has been a District Leader of the Westchester County Democratic Committee since 1995. Mr. Goldberg has lectured widely, serving as Chair and moderator for programs offered by the New York State Bar Association, the New York State Trial Lawyers Institute, and the Kings County Inns of Court. He has authored articles for the New York State Bar Association, the *New York Law Journal*, *Trial Lawyers Digest* and the New York State Trial Lawyers Institute's *Bill of Particulars*. He has served as a legal commentator on network television and radio. He is a 1989 graduate of Brooklyn Law School.

J. MICHAEL HAYES, ESQ.

J. Michael Hayes has his own firm in Buffalo, N.Y., practicing in personal injury litigation. He is Board Certified by the National Board of Trial Advocacy as a Civil Trial Advocate,¹ was a Charter Member of the Buffalo Chapter of the American Board of Trial Advocates, President of the Inns of Court, Buffalo Chapter, has been on the Board of Directors for the New York State Trial Academy, and President of the New York State Trial Lawyers Association, Western District of New York. Mr. Hayes has been and is featured in "Who's Who in Law" for Western New York in *Business First*, *New York Super Lawyers*, *Best Lawyers in America*, *The Bar Register of Preeminent Lawyers*, *Who's Who in America*, *Who's Who in American Law* and he is "AV" rated by Martindale-Hubbell.

Born in St. Louis, Missouri, in 1946, Mr. Hayes attended the University of Notre Dame and SUNY at Brockport, graduating *summa cum laude* in 1973. He graduated from University of Buffalo Law School in 1976, having received an award for excellence in the Senior Trial Technique Course. He has been an adjunct professor at the University of Buffalo Law School where he has taught courses on motor vehicle accidents and personal injury litigation since 2001. Mr. Hayes is a frequent lecturer for the New York State Bar Association, The New York State Trial Academy, the Erie Bar Institute as well as the National Institute for Trial Advocacy. He is the author of *New York Motor Vehicle Accidents* (James Publishing Co., 1999), and numerous articles in local and statewide publications including the New York State Bar Association *Journal* and the New York State Trial Lawyers Association's *Bill of Particulars*.

¹ The National Board of Trial Advocacy is not affiliated with any governmental authority.

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DAVID PAUL HOROWITZ, ESQ.

David Paul Horowitz (david@newyorkpractice.org) has represented plaintiffs in personal injury cases for over 25 years and is of counsel to Ressler & Ressler in New York City. He is the author of *New York Civil Disclosure* and *Bender's New York Evidence* (both by LexisNexis), the 2008 and 2014 supplements to *Fisch on New York Evidence* (Lond Publications), and, since 2005, the monthly "Burden of Proof" column in the New York State Bar Association *Journal*. Mr. Horowitz teaches New York Practice at Columbia Law School and Professional Responsibility and Electronic Evidence & Disclosure at Brooklyn Law School. He serves on the Office of Court Administration's CPLR Advisory Committee, as Associate Reporter to the New York Pattern Jury Instruction (PJI) Committee, and is a frequent lecturer and writer on these subjects.

ROBERT A. HYMAN, ESQ.

Robert A. Hyman, deceased, was the managing partner at the Law Offices of Robert A. Hyman, P.C., in Pleasantville, N.Y. He concentrated his practice in the representation of the victims of nursing home and elder care neglect and abuse, medical malpractice, automobile accidents, negligence, construction accidents and premises liability. Mr. Hyman was a President's Club member of the Association of Trial Lawyers of America and a member of the New York State Trial Lawyers Association and the New York State Bar Association. Mr. Hyman was also a member of the National Citizens Coalition for Nursing Home Reform, the Long Term Care Community Coalition, Friends and Relatives of Institutionalized Aged, and the American Medical Directors Association. Admitted to practice in both New York and Massachusetts, Mr. Hyman was a *cum laude* graduate of Vermont Law School, and held a master's degree in cell and molecular biology from the State University of New York at Buffalo. He also wrote and lectured on nursing home negligence in New York.

E. STEWART JONES, JR., ESQ.

E. Stewart Jones, Jr. graduated from Williams College in 1963 and Albany Law School in 1966, joining the firm of E. Stewart Jones, PLLC, in Troy, N.Y. following graduation. His practice concentrates on the representation of victims in personal injury and wrongful death cases of all kinds and in the defense of major criminal cases in all federal and state courts. Mr. Jones is a fellow of the International Academy of Trial Lawyers, the Inner Circle of Advocates, the International Society of Barristers and the American College of Trial Lawyers. He is also a Diplomat of the American Board of Trial Advocates and the American Board of Profes-

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sional Liability Attorneys. He is a Fellow of the American Board of Professional Liability Attorneys, the American Bar Foundation, the New York State Bar Foundation and the American Board of Criminal Lawyers. Mr. Jones has been listed in the *Best Lawyers in America* from the first through the current editions (currently in five areas), and is listed in *Who's Who in American Law* and *Who's Who in America*. He was named one of the top 25 attorneys in the Hudson Valley and one of the top 10 lawyers in Upstate New York in *Super Lawyers Magazine* in 2007 and every year since. Active in civic and community affairs, he has served on many boards of trustees and directors, including the Legal Aid Society of Northeastern New York, the Albany Academy, Albany Law School and the New York State Trial Lawyers Association, among many others, and has chaired numerous capital campaigns and annual funds.

Mr. Jones is the recipient of the New York State Bar Association's Criminal Justice Section's Outstanding Practitioner Award (1980), the Albany Academy Distinguished Alumnus Award (2002), the Albany Law School Trustees Gold Medal (2003), Law Day 2005—Equal Access to Justice Award from the Legal Aid Society of Northeastern New York, Partners in Literacy Award—Literacy Volunteers of Rensselaer County (2005), Capital District Trial Lawyers Association—Daniel Mahoney Memorial Charter President's Award (2006), Citizen Laureate Award—The University at Albany Foundation (2008), American Cancer Society—Beacon of Hope Award (2010), and St. Rose Community Service Award (2010). He has authored numerous articles and chapters in a broad variety of trial advocacy books, and lectured extensively throughout the state of New York on all facets of personal injury lawsuits.

LESLIE DEBRA KELMACHER, ESQ.

Leslie Kelmacher has a proven track record of success in achieving multi-million-dollar results for clients in all areas of personal injury, medical malpractice and defective product cases. Well known in the New York legal community for her outstanding work in the courtroom, she is a leader in New York's legal profession. She has successfully tried cases in a variety of matters including faulty construction, missed medical diagnoses, lead poisoning, toxic chemical exposures, premises liability and wrongful death and shares her expertise through leadership in many professional organizations.

Ms. Kelmacher served in the prestigious position of Chair for the Tort Litigation Committee, Association of the Bar of the City of New York and on that Association's Committee on the Judiciary. She is also on the

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Board of Directors of the New York State Trial Lawyers Association and for many years chaired its Annual Continuing Legal Education Seminar, "DECISIONS." She is also Past President of the New York State Trial Lawyers Association. She is a frequent lecturer and teacher on various topics in personal injury and medical malpractice law for bar groups, including the New York State Bar Association, New York State Trial Lawyers Institute and the City Bar Association.

Ms. Kelmachter has extensive courtroom experience in state and federal courts and takes pride in the results she has obtained for injured people and their families.

She received her law degree (J.D.) at Albany Law School, Union University and her undergraduate degree (B.A. *magna cum laude*) at the State University of New York.

DANIEL KRAMER, ESQ.

Daniel Kramer, now retired, was a sole practitioner in New York City, concentrating in personal injury litigation. Mr. Kramer was also an Adjunct Professor of Law at St. John's University School of Law where he taught Legal Medicine since 1999. Prior to this, he taught a course in Medical Malpractice as an Adjunct Professor of Law at New York Law School for eight years. Mr. Kramer graduated *summa cum laude* with a B.A. degree from Syracuse University and graduated in the top 2% of the class from St. John's University School of Law. He is a former partner of Kramer, Dillof, Tessel, Duffy & More, a personal injury litigation firm with an emphasis in Medical Malpractice and a former partner of DiJoseph & Gluck, a firm concentrating in personal injury litigation and appeals.

Mr. Kramer served as a pro bono attorney for victims who filed claims for compensation from the Victims Compensation Fund from September 11, 2001 until July 15, 2004. During this time period, he filed more claims pro bono than any other attorney or firm in the country, and was recognized for this in an article by *The New York Times* and honored by *Lawyer's Weekly* as one of the Ten Best Attorneys for the Year in 2004. Mr. Kramer is a frequent lecturer for organizations including the New York State Trial Lawyers Association, New York State Bar Association and Practising Law Institute. He is the co-author of several books including *Medical Malpractice, Editions 4 and 5* (published by P.L.I.), *Medical Malpractice Discovery and Trial, Edition 6* (published by P.L.I.) and *Evidence in Negligence Cases, Editions 6 and 7* (published by P.L.I.), as well

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as the author of numerous articles, including monthly columns published in the *New York Law Journal* and other legal trade publications. He received the Bergen County “Salute the Champions” award for his work with organizations that help handicapped persons.

ROBERT E. LAHM, ESQ.

Robert E. Lahm, of the firm Robert E. Lahm, PLLC, concentrates his practice on personal injury, medical malpractice, products liability, and all other torts and trial law. Admitted to practice in the State of New York and the State of Pennsylvania, the Federal District Courts and the Federal 2d Circuit Court of Appeals, he is a Board Certified Civil Trial Advocate. Mr. Lahm is a Past President, Director and one of the founders of the New York State Academy of Trial Lawyers. He is also Co-Chair of the Fifth District Jury Project and Co-Chair of the Fifth Judicial District Task Force. Mr. Lahm is a Past President of the New York State Trial Lawyers Association and Past President of the Upstate Trial Lawyers Association. He has lectured widely on topics as diverse as products liability, opening statements and jury selection, trial techniques, trial practice and anatomy. He is listed in *The Best Lawyers in America, 1997–Present* and the 2013 *New York Super Lawyers Upstate* edition, and was recently honored as Best Lawyer of the Year 2014 by *The Best Lawyers in America*. A former Adjunct Associate Professor, Department of Medicine, S.U.N.Y. Health and Science Center, Mr. Lahm was a *magna cum laude* graduate of Fairleigh Dickinson University and received his Juris Doctor from Syracuse University College of Law. He is a member of the American Association of Justice, the New York State Bar Association, the New York State Academy of Trial Lawyers, the Onondaga County Bar Association, the Oswego County Bar Association, the Civil Justice Foundation and the Women’s Bar Association of New York.

PAUL A. LEVINE, ESQ.

A member of the law firm Lemery Greisler, LLC, in Albany, New York, Paul A. Levine concentrates his practice on bankruptcy, creditors’ rights and commercial litigation. A graduate of George Washington University Law School, he is a frequent lecturer for the New York State Bar Association, Capital Region Bankruptcy Bar Association, Albany County Bar Association, and other CLE providers. Mr. Levine was Chair of the 2000 Annual Conference of the Capital Region Bankruptcy Association and Co-Chair of the American Bar Association 2005 Judicial Divisions Inaugural Bench and Bar Bankruptcy Conference in Washington, D.C. He is a Past President of the Capital Region Bankruptcy Bar Association.

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Licensed in both New York State and District of Columbia, he is a member of New York State Bar Association and Capital Region Bankruptcy Bar Association.

KEVIN J. MACDONALD, ESQ.

Kevin J. Macdonald is a Principal Court Attorney with the New York State Court of Claims. He provides counsel to the Clerk's Office and its staff regarding court operations, procedure and jurisdiction as well as information regarding Court of Claims practice and procedure to attorneys and pro se litigants. He also performs legal research and writing services for the court's judges and supervises the court's pro se unit and library. He is a panel member of the Unified Court System's Anti-Discrimination Panel and also scores bar exam essays for the New York State Board of Law Examiners. Prior to his position as Court Attorney, he was an Appellate Court Attorney for the Appellate Division, Third Department, Law Clerk to a Court of Claims Judge; and a Law Clerk to an Associate Judge of the Court of Appeals. He received his B.A. from State University of New York at Albany and his J.D. from Vanderbilt University School of Law.

ARTEMIS H. MALEKPOUR, ESQ.

Artemis H. Malekpour is a partner in North Carolina's national trial consulting firm of Miller Malekpour & Ball, concentrating in focus groups, case strategy and jury selection. She holds a B.A. in psychology from the University of North Carolina at Chapel Hill, a master's degree in Healthcare Administration from the University of North Carolina at Chapel Hill School of Public Health, and her J.D. degree with honors from Duke University School of Law. She is a member of the Orange County, 15B Judicial District, North Carolina and American Bar Associations, the North Carolina State Bar, the North Carolina Academy of Trial Lawyers, the American Association for Justice, and the American Society of Trial Consultants.

PATRICK A. MALONE, ESQ.

Patrick A. Malone is a leading patient safety advocate and attorney who represents seriously injured people in medical malpractice lawsuits product liability cases and other types of lawsuits. Mr. Malone has won a long string of exceptional verdicts and settlements on behalf of his clients. He is the coauthor of *Rules of the Road: A Plaintiff Lawyer's Guide to Proving Liability* (2nd edition, Trial Guides, 2010), an acclaimed book teaching other attorneys how to win cases, and has spoken about the

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“Rules of the Road” approach to lawyer groups all over the country. He appeared on the Today Show to discuss his book for patients, *The Life You Save: Nine Steps to Finding the Best Medical Care—and Avoiding the Worst*. He also wrote *Winning Medical Malpractice Cases With the Rules of the Road™ Technique* (Trial Guides, 2012) and has chaired several national seminars featuring the book’s techniques.

A 1984 graduate of Yale Law School, Mr. Malone clerked with U.S. District Judge Gerhard Gesell in Washington for one year before starting his law practice. He is a member of the Inner Circle of Advocates, and a Fellow of the International Academy of Trial Lawyers. A past president of the Trial Lawyers Association of Metropolitan Washington, D.C. (2005–2006), Mr. Malone is a recipient of that organization’s “Lawyer of the Year” award. He has been recognized as a leader in the field by the *Lawdragon 500 Leading Lawyers in America* (2008), *The Best Lawyers in America* (2006 edition to present) and Super Lawyers.

Mr. Malone is a Certified Civil Trial Advocate of the National Board of Trial Advocacy. He is a member of the American Law Institute and served on the National Academy of Sciences’ Panel on Science, Technology and Law from 2000 to 2006. Mr. Malone is a frequent lecturer at continuing legal education programs for lawyers, and he has lectured at grand rounds at Yale-New Haven Hospital and has spoken to others doctors’ groups. He has written articles for *Trial*, *Litigation*, *The American Scholar* and the *Washington Post*, among others. One of his notable appellate cases includes *Benedi v. McNeil-PPC Inc.*, 66 F.3d 1378 (4th Cir. 1995) (affirming an \$8-million award for Malone’s client against Tylenol manufacturer for acetaminophen-induced liver failure). At Yale, he was an editor of the *Yale Law Journal* and won the Harlan Fiske Stone Prize and Potter Stewart Prize for best moot court efforts, along with the C. LaRue Munson Prize for legal clinic work. Before attending law school, Mr. Malone was a journalist, writing for United Press International and the *Miami Herald*. He was a finalist for the Pulitzer Prize in 1980 for a series of articles he coauthored, titled “Dangerous Doctors.” Other journalism awards he received were from the Newspaper Guild, American Bar Association, Sigma Delta Chi, National Headliners Club, American Academy of Family Physicians and the Florida Medical Association. Malone received his B.A. in 1972 from the University of Kansas, *summa cum laude*, Phi Beta Kappa. He lives with his wife Vicki in Chevy Chase, MD, and practices from offices three blocks north of the White House in downtown Washington.

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DEBRA MILLER

Debra Miller is a partner in North Carolina's national trial consulting firm of Miller Malekpour & Ball. Her trial consulting expertise comes from her background in marketing, advertising, persuasion and communications as applied to decision making. She has worked on a wide variety of civil and criminal cases across the country, providing strategy, jury selection, jury group research, advocacy skills, and post-trial interviews and analyses. She has taught at the law schools at the University of North Carolina, Campbell and Duke, and for such groups as the American Association for Justice (formerly ATLA), ATLA-New Jersey, and the North Carolina Academy of Trial Lawyers.

HENRY G. MILLER, ESQ.

Henry G. Miller is the senior member of the White Plains, New York, law firm of Clark, Gagliardi & Miller, P.C. Mr. Miller's trial work has usually been for plaintiffs in civil cases. A graduate of St. John's College (1952) and St. John's Law School (1959), Mr. Miller is a Past President of both the Westchester County Bar Association and the New York State Bar Association. He is a Past Regent of the American College of Trial Lawyers, a Past Director of the International Academy of Trial Lawyers, a Past Director of the New York State Trial Lawyers Association and a Fellow of both the American and New York Bar Foundations. Mr. Miller was appointed by Governor Mario Cuomo to chair the Commission on Local Government Ethics. He was appointed by Governor George Pataki to be a member of the Committee on Cameras in the Courtroom.

Mr. Miller has frequently appeared on television and radio. He often lectures at law schools and at Bar Associations on all aspects of trial practice. He is the author of *Settlements* in the Art of Advocacy series as well as the editor of the *New York Practice Guide on Negligence*, both published by Matthew Bender, and most recently, *On Trial: Lessons from a Lifetime in the Courtroom*, published by ALM Publishing.

A former Adjunct Professor of Law at St. John's Law School, Mr. Miller has written the "Ethics" chapter in the American Trial Lawyers Association's text on plaintiffs personal injury litigation titled *Atla's Litigating Tort Cases*. He is a past recipient of the Pace University School of Law Distinguished Service Award.

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STEVEN E. NORTH, ESQ.

Steven E. North, of North & Deutsch, LLP, New York, NY, concentrates his practice in medical malpractice. He was named the Medical Malpractice Lawyer of the Year 2012 by Best Lawyers. Mr. North received his J.D. from Brooklyn Law School and LLM from New York University School of Law. Formerly an Assistant District Attorney for New York County in the Homicide Bureau, he was also Special Assistant Attorney General Bureau Chief. Mr. North is a referee for the New York State Commission on Judicial Conduct, a member of the Bench and Bar Medical Malpractice Committee of the New York County Supreme Court, and a former member of the Board of Directors of the New York State Trial Lawyers Association and appointed to the Governor's Judicial Screening Committee. He is a mediator for the U.S. District Court, Southern District of New York, and a member of both the Advisory Committee on Civil Litigation, Practising Law Institute (PLI) and the Million Dollar Advocates Forum.

Mr. North's law school teaching affiliations include New York University (Judge, Appellate Argument; Alumni Advisor); Cardozo School of Law (Faculty, Intensive Trial Advocacy Program); Fordham Law School (Roscoe Pound Institute Lecture); and Brooklyn Law School (Bridge the Gap Programs). A frequent lecturer, he has presented for the New York State Bar Association, Mt. Sinai School of Medicine, Grand Rounds, Jacobi Hospital, New York State Trial Lawyers Association, PLI, Lorman, and the New York County Bar Association. His publication credits include "Damages Update," *Trial Lawyers Quarterly*, N.Y.S.T.L.A. (1991–present); "North's Ninety-Nine Pointers on Advanced Deposition Practices, Use of Experts in Medical Malpractice Cases," *New York Law Journal*; and *Managing the Multi-Million Dollar Lawsuit*.

KEVIN T. O'BRIEN, ESQ.

Kevin T. O'Brien is a structured settlement broker with Secure Settlements LLC in New York City. He is also an attorney, formerly with the law firm of Shearman & Sterling. He received his J.D. from Boston College Law School and an LLM in taxation from New York University School of Law. He is accredited by the New York State Continuing Legal Education Board to give lectures on structured settlements, and he lectures frequently to judges and attorneys on how to protect plaintiffs in structured settlements.

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MARY ELLEN O'BRIEN, ESQ.

Mary Ellen O'Brien is a solo practitioner who has focused her practice in appellate advocacy of New York appeals and appellate motion practice since 2001. She is responsible for all phases of taking, perfecting and arguing appeals as well as preparation of pre- and post-trial substantive motions. She serves of counsel to appellate, insurance defense and plaintiff's firms. A 1999 graduate of St. John's University School of Law, she is admitted to practice in the state of New York. A former Second Judicial Department court attorney, Ms. O'Brien has served as in-house appellate counsel for multifaceted insurance defense litigation firm with a concentration in Labor Law, Construction, Personal Injury Defense, and Contract Law. Ms. O'Brien is also a member of several legal and professional bar associations including the Women's Bar Association of Nassau County, Nassau County Bar Association, Columbian Lawyers' Association of Nassau County, Catholic Lawyers' Association of Nassau County, and the New York County Lawyers' Association, where she is a member of the appellate practice committee, as well as the New York State Bar Association. Before joining the law profession, Ms. O'Brien, a former Peace Corps volunteer, had a long career as investment analyst and portfolio manager for many well-known Wall Street investment-banking institutions.

MICHELLE LECLAIR PANICCIA, ESQ.

Michelle LeClair Paniccia graduated, *cum laude*, from Thomas M. Cooley Law School in 1995. Thereafter, she was employed by Unum, First Cardinal Corporation and in 2001 joined the New York State Workers' Compensation Board. As a Senior Attorney in the Appellate Review Division, Ms. Paniccia reviews appeals, conducts research and prepares Memorandum of Board Panel Decisions, many of which involve issues surrounding Workers' Compensation Law § 29.

PAUL J. PENNOCK, ESQ.

For the last two decades, Paul J. Pennock has been Chair of the Pharmaceutical and Medical Device practice group at Weitz & Luxenberg. He is directly responsible for all aspects of leading a large national litigation department involving all aspects of litigation from inception through trial. He has served as lead plaintiffs' counsel as well as plaintiff steering committee member liaison counsel in numerous state and federal MDL mass tort litigations. Mr. Pennock has handled numerous "bellwether" trials and *Daubert* hearings in both state and federal courts.

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GARY B. PILLERSDORF, ESQ.

Gary B. Pillersdorf is a board-certified Civil Trial attorney practicing in New York City. He has over 35 years of courtroom experience, having taken over 350 verdicts, including 28 verdicts over \$1 million. He is the principal attorney of Gary B. Pillersdorf & Associates, P.C., practicing in courtroom litigation.

Mr. Pillersdorf is currently Dean Emeritus of New York State Trial Lawyers Continuing Legal Education Institute. He is the author of the highly acclaimed textbook *New York Motor Vehicle Accidents*, published by James Publishing, and is a frequent contributor to *Trial* magazine. He has also authored a chapter on “Case Selection” in *Litigating Tort Cases*, Thomson-West Publishers 2003.

A highly sought-after speaker, Mr. Pillersdorf has lectured throughout the nation. He teaches courses in Trial Advocacy, Medicine for Lawyers and Courtroom Techniques in New York. He is a past president and current member of the Melvin Belli Society, is a member of the Million-Dollar Advocates Forum, is included in *Who’s Who in American Law* and is a “Super Lawyer”—Top Lawyers of New York. He is the senior New York State representative to the State Delegates Committee of the American Association of Justice (formerly ATLA) and has served as chair of their Motor Vehicle Collision, Highway and Premises Liability Section. A winner of the prestigious Mel Award as National Trial Lawyer of the Year, Mr. Pillersdorf is the only Northerner to win the War Horse Award from the Southern Trial Lawyers Association. He has handled numerous high-profile cases including several that were the largest verdict in the state for the year in which they were tried, and has tried many cases against municipalities.

JASON J. PLATT, ESQ.

Jason J. Platt is a partner of Doolan Platt & Setareh, LLP in Dobbs Ferry, New York. His practice is concentrated in personal injury matters, and, since 2004, he has focused almost exclusively on negligence, neglect, and abuse matters arising in nursing home, hospital, assisted living, and home care settings. An active member of the American Association for Justice Nursing Home Litigation Group, the New York State Trial Lawyers Association, and the New York State Bar Association, Mr. Platt also belongs to the National Citizens’ Coalition for Nursing Home Reform, the Long Term Care Community Coalition, Friends and Relatives of the Institutional Aged, and the American Medical Directors Association. Mr. Platt has lectured on, and co-authored, the following papers:

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“Civil Prosecution of a Nursing Home Case,” the Professional Education Systems Institute; “Nursing Home Neglect and the Regulations in New York” for Lorman Education Services; and “Case Intake, Investigation, Pleadings, and Disclosure” for the Suffolk County Bar Association.

A *cum laude* graduate of the State University at Geneseo with a B.A. in Economics, Mr. Platt received his J.D. from Brooklyn Law School, where he was a member of the Moot Court Honor Society. His practice encompasses the five boroughs of New York City, surrounding counties, and upstate New York.

MARK A. POWERS

Mark Powers is President and Founder of Atticus and is a Master Certified Coach. He has been coaching trial lawyers for more than 25 years, working with top-producing litigators, increasing their incomes by 30% in the first 12 months while decreasing their time in the office by 10% to 15%.

Mr. Powers co-authored *Time Management for Attorneys*, developed in conjunction with the American Bar Association, *How Good Attorneys Become Great Rainmakers*, and *Hire Slow, Fire Fast*. He is a nationally recognized speaker who has worked with State Trial Lawyer Associations, the Law Society of Scotland, the Canadian Bar Association, the American Bar Association and various bar associations, including those in Arizona, Florida, Massachusetts, Mississippi, and New York. An expert in the field, Mr. Powers is a syndicated columnist on law firm marketing and has been featured in publications such as *Lawyers Weekly USA*, *American Bar Association Journal*, *Florida Bar News*, *Massachusetts Bar Association Lawyers Journal*, and many others.

Mr. Powers previously served as the Chief Executive Officer and President of a multi-million-dollar, privately held company, and as a Corporate Manager in a Fortune 500 company. A native of Massachusetts, he has a master's degree from Northeastern University in Boston. His undergraduate studies include a bachelor's degree in economics. Mr. Powers can be reached at mark@atticusonline.com or by visiting the Atticus web site, www.atticusonline.com.

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James B. Reed is a trial attorney admitted in New York and Pennsylvania and is the managing partner of the Ziff Law Firm of Elmira, New York. A 1986 graduate of Dickinson School of Law, he is a member of the Multi-Million Dollar Advocates Forum, New York State and American Bar Associations, the New York Trial Lawyers Association, the Pennsylvania Association for Justice, the New York Academy of Trial Lawyers and the American Association for Justice. Admitted to practice in New York and Pennsylvania, Mr. Reed was designated as a “Super Lawyer” in the area of personal injury plaintiff attorneys. Mr. Reed was selected a “Best Lawyer in the United States” for personal injury and malpractice cases and his firm was selected as a Tier 1 “Best Law Firms in the United States.”

Active in the community, he is currently the President of the *Soaring Capital Soccer Club*, a regional travel soccer club, has served on the Board of Directors for the Arnot Art Museum, the Rockwell Art Museum and the Chemung County SPCA. Mr. Reed lectures frequently and has been published in the New York State Bar Association *Journal*.

JOAN LENSKY ROBERT, ESQ.

Joan Lensky Robert is a member of Kassoff, Robert & Lerner LLP, a law firm in Rockville Centre, New York, practicing exclusively in the areas of elder law and disability law. She is an honors graduate of Skidmore College, the University of Pennsylvania, and a *summa cum laude* graduate of Touro College School of Law where she was the recipient of a Dean’s Fellowship and valedictorian of the part-time division. A member of the Executive Board of the Elder Law Section of the New York State Bar Association, she served as Chair of the Section during the 2003–2004 term. She served as a Director of the Nassau County Bar Association and is a Past Dean of the Nassau Academy of Law and a past Chair of the Elder Law/Social Services/Health Advocacy Committee of the Nassau Bar. A member of the Legal Advisory Committee of the Long Island Alzheimer’s Foundation, Ms. Robert was honored for outstanding service in 1997. She was also honored for her outstanding service to Project Real in October 2001 and was a member of the 2004 Class Leadership of the National Multiple Sclerosis Society, Long Island Chapter. She is Past President of the New York Chapter of NAELA, serves on the Board of Editors of *Bill of Particulars*, the publication of the New York State Trial Lawyers Association, and is a former editor of *Elder Law Attorney*, the quarterly publication of the Elder Law Section of the New York State Bar

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Association. She also served as a past editor-in-chief of the *New York Elder Law and Guardianship Newsletter*, West Publications.

A member of the New York State Bar Association Trusts & Estates Law Section, Ms. Robert serves as a member of the Continuing Legal Education Committee. She co-wrote the chapter "Creative Advocacy" in the book *Guardianship Practice in New York State*, published by the New York State Bar Association. An author of numerous articles for community groups and professional groups concerning elder law and disability law and frequent lecturer to community groups on these topics, Ms. Robert also has served on the faculty of various Bar Association programs concerning Elder Law, Supplemental Needs Trusts and asset preservation, and has been an instructor at certified training programs for Guardians, Supplemental Needs Trust Trustees and Court Evaluators sponsored by the New York State Bar Association, the Nassau Academy of Law, St. John's University, the Association of the Bar of the City of New York and the New York County Lawyers' Association.

LAWRENCE N. ROGAK, ESQ.

Since graduating from Brooklyn Law School in 1981, Lawrence N. "Larry" Rogak has spent most of his career on the defense side of the insurance and liability area of the law, including two years working in the claims departments of insurance companies. A prolific writer, he has published hundreds of articles on insurance law practice, and two books. *Rogak's New York No-Fault Law & Practice* is the first comprehensive guide to the subject ever published. He also wrote a general liability claims-handling guide, *Rogak's New York Insurance Law*. Mr. Rogak is the managing partner of Lawrence N. Rogak LLC, an insurance defense law firm in Oceanside, New York, which is listed in *Best's Directory of Recommended Insurance Attorneys*.

Although Mr. Rogak is almost always on the defense side of the bar, the New York State Trial Lawyers Association invited him to write the no-fault section for its personal injury law treatise, released in January 2008. Mr. Rogak also publishes a daily insurance law newsletter, *The Rogak Report* (www.Rogak.com), which examines the latest court decisions.

DANIEL R. SANTOLA, ESQ.

Daniel R. Santola is a founding partner of Powers and Santola LLP, a law firm that has received the top ranking from *U.S. News* and Best Lawyers/Best Law Firms in plaintiffs' personal injury litigation and medical malpractice. He practices in the areas of personal injury, medical malprac-

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tice, construction accidents and product liability law. A graduate of Albany Law School, he is the author of the book *Litigating Construction Accidents in New York* (West Publishing Co.) and has authored chapters in *Representing Plaintiffs in Medical Malpractice Cases* (Aspatore/Thomson Reuters); “Medical Equipment,” in the *Products Liability Practice Guide* (Matthew Bender & Co.); and “Construction Accidents,” in the *New York Negligence Guide* (Matthew Bender & Co.). Since 1989, he has been listed in the *Best Lawyers in America*. Mr. Santola is a Dean of the New York State Academy of Trial Lawyers, past president of the Albany County Bar Association, the Albany Chapter of the American Board of Trial Advocates, and the Capital District Trial Lawyers Association. He has been a frequent lecturer on construction accidents and has given legal seminars on medical malpractice and trial tactics.

STEPHEN G. SCHWARZ, ESQ.

Stephen G. Schwarz has been the managing partner of Faraci Lange, LLP in Rochester, N.Y., since 1995. He focuses on personal injury and business litigation, including medical malpractice, serious auto accident cases, product liability and toxic tort and environmental contamination cases, practicing in both state and federal courts. A graduate of Albany Law School, Mr. Schwarz is a former confidential law clerk to Chief Judge Michael A. Telesca, U.S. District Court for the Western District of New York. He is a Fellow in the American College of Trial Lawyers and is Past President of the Rochester Chapter of the American Board of Trial Advocates. He is also a member of the American Association for Justice, the New York State Bar Association (where he has served as Chair of the Committee on Judicial Administration), the Monroe County Bar Association (where he has served as chair of various committees and twice on the board of trustees), and is a Past President of the Genesee Valley Affiliate of the New York State Trial Lawyers Association. Mr. Schwarz has been awarded Martindale-Hubbell’s highest rating and received the Special Service Award from the U.S. District Court, Western District of New York, in 1998, and the President’s Award from the Monroe County Bar Association in 1995 for his work on the judicial candidate evaluation program. Mr. Schwarz has written articles for *Voir Dire* magazine, *Trial* magazine and the New York State Bar Association *Journal*, as well as numerous essays on topics involving civil litigation for the *Rochester Democrat & Chronicle*. He is a frequent lecturer on a range of litigation topics at continuing legal education programs presented by the New York State and Monroe County Bar Associations.

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ARTHUR J. SIEGEL, ESQ.

Arthur J. Siegel, a member of Bond, Schoeneck & King, PLLC, is a trial lawyer practicing in the areas of commercial, personal injury, product liability, medical malpractice, and environmental litigation in both state and federal courts. He also maintains an active appellate practice in both state and federal courts. He is Past President of the Legal Aid Society of Northeastern New York; Past Co-Chair, Board of Directors, Fund Equal Justice; President of Congregation Beth Emeth, Albany, New York; and recipient of the Community Builder's Award from the Council of Community Services of New York State, Inc. He is a member of the New York State Bar Association, for which he has led CLE programs in personal injury and product liability litigation, the Federal Bar Association, Northern District of New York, and the Albany County Bar Association.

HONORABLE PAUL A. VICTOR

Paul A. Victor is a Justice of the Supreme Court of the State of New York, Bronx County. A graduate of Fordham Law School, he was previously a Judge in the Civil Court of the City of New York, Bronx County; a partner with the law firm Dublirer, Haydon, Straci & Victor; an Arbitrator with the American Arbitration Association; Counsel to Assemblyman Roberto Ramirez; Counsel to Senator Martin Connor; Counsel to Assemblyman George Friedman; Commissioner of the Law Revision Commission; member of the Medical Malpractice Mediation Panel, Bronx County Supreme Court; Board Member of the New York City Conciliation and Appeals Board; Arbitrator for the New York City Civil Court, Bronx County; Counsel to Assemblyman Alexander Chananau; partner in the law firm Russo, Stein & Carola & Victor; Assistant District Attorney in Bronx County; and a Law Assistant to Hon. Adrian P. Burke, New York Court of Appeals. Justice Victor is a Presiding Justice at the Regional Finals of the National Student Advocacy Competition sponsored by the Association of Trial Lawyers. A frequent lecturer, he presents for the New York State Trial Lawyers Association and the Bronx County Bar Association; he is a lecturer and faculty member at the annual OCA-sponsored New Judges Orientation Seminars. He was also a participating Justice in the OCA-sponsored "Jury Trial Project" and a Judge for the New York City Law Department's moot court training program.

STEPHEN A. WEINBERG, ESQ.

Stephen A. Weinberg was born and raised in the Bronx, New York, received a B.A. from Stony Brook University in 1975 and a J.D. from Pace University Law School in 1979. After five years of private practice

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in White Plains, he joined the Court of Claims in 1985 as law clerk to Hon. Henry W. Lengyel. During his 29 years with the Court of Claims, he has served as law clerk to presiding Judge Christopher J. Mega, Judge Melvin L. Schweitzer and Judge Stephen J. Mignano, and also was the court's principal court attorney for a period of 10 years, during which he was responsible for the creation and development of the court's website, including a searchable database of the court's decisions.

HONORABLE LEONARD A. WEISS

Leonard A. Weiss was the Presiding Justice of the Appellate Division of the New York State Supreme Court, Third Department. A graduate of Albany Law School, Judge Weiss also served as Justice of the City Court of Albany (1977–1978), and Justice of the New York State Supreme Court (1978–1981) and served on the Appellate Division, Third Department (1981–1994). In 1994, he was appointed Commissioner for the New York State Public Service Commission. Judge Weiss has received a number of awards, including the 2005 Distinguished Alumni in Government Award from Albany Law School; the Felix J. Aulisi Award for Judicial Excellence and the Fair Administration of Justice from the New York State Trial Lawyers Association; the Award for Judicial Excellence and Leadership from the Association of Justices of the Supreme Court of the State of New York; and an honorary Doctor of Law Degree from the College of Saint Rose. A presenter in CLE programs on arbitration and mediation, he is a member of the New York State Bar Association, the Albany County Bar Association, and the Association of Justices of the Supreme Court of the State of New York. He was appointed Trustee of the Roman Catholic Diocese of Albany Catholic Charities and Referee in the Frontier Insurance Corporation Dissolution by the New York State Department of Insurance.

STEPHEN YALE-LOEHR, ESQ.

Stephen Yale-Loehr has practiced immigration law for more than 30 years. He is co-author of *Immigration Law and Procedure*, the leading multi-volume treatise of U.S. immigration law. Of counsel at Miller Mayer, LLP, in Ithaca, New York, he also teaches immigration and asylum law at Cornell Law School as an adjunct professor. Mr. Yale-Loehr received his B.A. in 1977 from Cornell University, where he was a Rotary exchange student to Japan, a College Scholar and Phi Beta Kappa. In 1981, he received his J.D., *cum laude*, from Cornell Law School, with a concentration in international legal affairs; he was also editor-in-chief of the *Cornell International Law Journal*. After graduation, Mr. Yale-Loehr

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clerked for a federal judge. For the next four years, Mr. Yale-Loehr practiced international trade and immigration law at a large law firm in Washington, D.C. From 1986 to 1994, he was managing editor of *Interpreter Releases* and executive editor of *Immigration Briefings*, two leading immigration law publications.

Mr. Yale-Loehr is the co-author of many books, including *Americas Challenge: Domestic Security, Civil Liberties and National Unity After September 11*; *Balancing Interests: Rethinking the Selection of Skilled Immigrants*; *J Vista Guidebook*; *Understanding the Immigration Act of 1990*; *Understanding the 1986 Immigration Law*; and numerous law review articles. He is a member of the New York and District of Columbia bars, and is admitted to practice before the U.S. Court of Appeals for the D.C. Circuit and the U.S. Supreme Court. He is a member of the Business Immigration Committee of the American Immigration Lawyers Association (AILA). A frequent speaker and moderator at immigration law conferences, he has been quoted in national and local newspapers, radio and TV news reports, and has testified before Congress and as an expert witness. Mr. Yale-Loehr is listed in *Who's Who in America* and *An International Who's Who of Corporate Immigration Lawyers*. He is the 2001 recipient of AILA's Elmer Fried Award for excellence in teaching and the 2004 recipient of AILA's Edith Lowenstein Award for excellence in advancing the practice of immigration law.