

RAWLE'S REPORTS

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www.rawle.com

Philadelphia, PA
215. 575. 4200
Fax 215. 563. 2583

Pittsburgh, PA
412. 261. 5700
Fax 412. 261. 5710

Harrisburg, PA
717. 234. 7700
Fax 717. 234. 7710

Marlton, NJ
856. 596. 4800
Fax 856. 596. 6164

Jersey City, NJ
201. 559. 8360
Fax 212. 643. 0222

Downtown Manhattan, NY
212. 323. 7070
Fax 212. 323. 7099

Midtown Manhattan, NY
212. 643. 0200
Fax 212. 643. 0222

Long Island, NY
516. 294. 2001
Fax 516. 294. 2006

New Haven, CT
203. 427. 2906
Fax 212. 643. 0222

Wilmington, DE
302. 778. 1200
Fax 302. 778. 1400

Wheeling, WV
304. 232. 1203
Fax 304. 232. 1205



NEW YORK CONSTRUCTION

Rawle & Henderson LLP Obtains Dismissal for Contractor



Anthony D. Luis

A judge recently granted our motion seeking a dismissal of all claims in favor of our client, the third-party defendant contractor, in a case venued in Supreme Court, Westchester County.

Anthony D. Luis and **Gabriel A. Arevalo** of Rawle & Henderson LLP represented the third-party defendant contractor.

Plaintiff building tenant originally brought a property damage claim against defendant third-party plaintiff contractor alleging that renovations performed by third-party plaintiff contractor caused a roof collapse which resulted

in thousands of dollars of damage. Third-party plaintiff hired our client third-party defendant to replace two garage doors.

The incident occurred on February 20, 2014. Plaintiff claimed property damage and business interruption due to a partial roof collapse of the side of a commercial building. Plaintiff was the commercial tenant of the building, which was owned and maintained by defendant/third-party plaintiff.

Defendant/third-party plaintiff owned the subject premises for over 75 years. Plaintiff was a tenant for over 30 years. Defendant/third-party plaintiff maintains the subject property and acts as landlord. Plaintiff leases the subject property from defendant/third-party plaintiff as a storage facility for vehicles and equipment.

Before the subject collapse, defendant/third-party plaintiff contracted third-party defendant client in September 2013 to install two new garage doors at the subject location: a freestanding external rolling door on the east side ("East door") and a traditional sectional door on the west side ("West door") of the subject property. The East door was completely independent from the structure of the building. The East door was solely supported by two four-by-four steel tubes which were completely independent from and unconnected to the structure of the building. The installation did not require our client to make any expansion to the opening or any structural changes to the building.

On December 27, 2013, almost two months before the collapse, our client completed the installation of both doors.

The contract and invoices between defendant/third-party plaintiff and our client have no indemnification clauses. Our client therefore had no contractual obligation to indemnify the third-party plaintiff or any other party in this matter. Plaintiff made a claim of \$1,544,882.50.

We filed for summary judgment on behalf of our client against defendant/third-party plaintiff's claim for indemnification on the basis that no duty to indemnify exists and that our client's work did not cause the subject collapse.



Gabriel A. Arevalo

We argued that our client met its duty to defendant/third-party plaintiff by installing two garage doors as per the undisputed contract. Our client was responsible only for the garage door installations. The door installed on the east side—the site of the subject roof collapse—was completely independent and unconnected from the structure and did not require any structural changes to the building.

Plaintiff and third-party plaintiff did not detrimentally rely on our client's performance of its agreement with defendant/third-party plaintiff because the doors were properly working for two months before this collapse. Further, the mere installation of new doors without any need for structural changes is not "a comprehensive agreement" displacing defendant/third-party plaintiff's duty to maintain the property it owned. Our client was contracted to replace garage doors and that was the extent of our client's duty.

We argued that the Contract did not oblige our client to alter the structure in any manner in the performance of its work. Further, the testimonial evidence demonstrated that our client performed its contract in a workmanlike manner and did not perform work beyond the scope of that contract. Our client did not create, expand, or modify any openings or any pre-existing doorways to complete its work.

Further, our client owed no duty to plaintiff or the third-party plaintiff for the structural integrity of the subject building. We demonstrated that our client neither caused nor created any defective condition that caused the building's partial collapse.

The uncontroverted evidence revealed that the building collapse accident was solely caused by a pre-existing structural defect due to a missing I-beam column. The evidence established that the condition pre-existed our client's work and was not created by our client.

In support of the motion, we submitted an affidavit from our engineering expert, who inspected the site, contract and testimony. He concluded that our client made no structural changes to the east side of the subject premises. Our client did not cut any steel beams and cut no structural beams in the subject property. The extent of our client's work was to remove a preexisting door and tracks on the east side of the subject building and replace it with a freestanding external roll up door. Further, plaintiff's expert found that the subject collapse was due to an unstable roof due to a steel I-beam being improperly cut with torches. Our client did not have any welding equipment on site and did not use welding torches to cut or weld any steel beams.

Our expert further concluded that the cut I-beam must have been cut years before our client began work at the subject property.

Upon receipt of the motion, the Court—relying on the expert reports and affidavits we submitted—granted our motion for summary judgment, finding that our client did not cause any structural defects to the subject property and that our client fulfilled its obligations under the contract with defendant/third-party plaintiff.

Anthony D. Luis is a partner in our **Downtown Manhattan** office. He concentrates his practice on the defense of clients involving architects & engineers malpractice, casualty & premises liability, commercial motor vehicle litigation, medical malpractice, oral surgery & dental malpractice, construction defect cases, workers' compensation and commercial litigation. He served as an Assistant District Attorney in Queens as a prosecutor in the Homicide Investigation Unit, Domestic Violence Unit, and the Felony Trial Bureau where he tried numerous cases to verdict including jury trials. He is rated **AV Preeminent** by Martindale-Hubbell. Anthony received his J.D. at Western New England University School of Law in Springfield, Massachusetts, in 1999. He earned a B.A. in Political Science and English in 1996 from State University of New York at Geneseo. He is admitted to practice in New York and New Jersey, as well as U.S. District Courts for the Eastern and Southern Districts of New York and the U.S. District Court for the District of New Jersey.

Anthony can be reached directly at (212) 323-7063 • aluis@rawle.com

Gabriel A. Arevalo is an associate on our **Downtown Manhattan** office. He focuses his law practice in the areas of insurance coverage, casualty, premises liability, product liability, construction accidents and commercial motor vehicle defense. Gabriel earned his J.D. from the Maurice A. Dean School of Law at Hofstra University in 2017. He earned his B.A. in Political Science and Government from Stetson University in 2014. He is fluent in Spanish. Gabriel is admitted to practice in New York. Prior to joining Rawle & Henderson LLP, he was an attorney with an insurance defense law firm in New York City.

Gabriel can be reached directly at (212) 323-7085 • garevalo@rawle.com

DOWNTOWN MANHATTAN

Alexander J. Blood has joined our **Downtown Manhattan** office as an associate. He concentrates his law practice in the areas of medical professional liability, casualty & premises liability and insurance coverage. Alexander earned his J.D. from Syracuse University College of Law in 2018. He was an editor for the Syracuse University College of Law *Journal of International Law and Commerce* and was on the Dean's List for the Fall 2015, Fall 2016 and Spring 2017 semesters. While attending law school, Alexander served as an extern for the Syracuse University Office of Athletic Compliance and as a student attorney for the law school's Community Development Law Clinic. He earned his B.S. in Political Science from Niagara University in 2015. Alexander was on the Dean's List for all semesters and was a member of the Niagara University Honors Program. He served as president of Delta Epsilon Sigma (National Catholic Honors Society) and as vice president and secretary of the Pre-Law Student Association. Alexander is admitted to practice in New York and New Jersey. Prior to joining Rawle & Henderson LLP, he served as a judicial clerk for the Honorable Gregory L. Acquaviva, JSC, in the Superior Court of New Jersey, Chancery Division – Family Part.

Alex can be reached directly at (212) 323-7075 • ablood@rawle.com



Alexander J. Blood

TRUCKING INDUSTRY DEFENSE ASSOCIATION

Timothy J. Abeel, Chair of Rawle & Henderson LLP's Commercial Motor Vehicle (CMV) Section and a founding member of the Trucking Industry Defense Association (TIDA), was honored at the **2019 TIDA Annual Seminar** on October 29, 2019 for his 24 years of service as Editor of the *TIDA Newsletter*. Tim served as the Editor from TIDA's founding in 1993 until last year, when he stepped down from the position. The *TIDA Newsletter's* new editor is Mark Perkins, Owner of Perkins & Associates, LLC, a Shreveport, Louisiana law firm that concentrates on transportation law. Tim served as TIDA's President in 2000 and 2001 and as a Board Member from 1994 to 2003. In 2005, TIDA presented him with the John T. Biezup Memorial Service Award for his dedication and service to the trucking industry.



Timothy J. Abeel



Kyle Fleming Photography

Gary N. Stewart, a CMV partner in our Harrisburg office and a member of Rawle & Henderson's Executive Committee, accepts TIDA award from TIDA President Dana Hoffman on behalf of Timothy Abeel.

"This was a legendary run as our newsletter editor," said **TIDA President Dana Hoffman** at the TIDA Annual Seminar, which was held in Tampa, Florida. "Few associations across this great continent can boast that sort of continuity—an epic marathon of publications, one article, and one newsletter at a time. TIDA is proud to honor Tim Abeel for his service as the newsletter editor from 1993–2017."

Timothy J. Abeel has defended transportation companies in the state and federal courts of Pennsylvania, New Jersey and Delaware for more than 30 years. He is admitted to practice in all the state and federal courts of Pennsylvania, as well as the U.S. Courts of Appeal for the Second and Third Circuits and the Supreme Court of the United States. He has been admitted to the state and federal courts of New Jersey and Delaware *pro hac vice* since 1982. Tim graduated, *magna cum laude*, from the State University of New York at Albany and received his law degree from the Temple University School of Law. He is a recipient of the Associate Justice Lewis F. Powell Jr. Award from the American College of Trial Lawyers and the Frank Edward Roda Memorial Award from the Pennsylvania Trial Lawyers Association for Excellence in Advocacy. Tim's clients include some of the largest transportation companies and insurers of commercial motor vehicles in the United States. He is the editor of Rawle & Henderson's *Transportation Law Update* newsletter. He was a member of the Firm's Executive Committee from 2006 to 2018. Tim is rated **AV Preeminent** and has been selected as a 2019 **Pennsylvania Super Lawyer**.

Tim can be reached directly at (215) 575-4280 • tabeel@rawle.com

COLUMBIA UNIV. COLLEGE OF DENTAL MEDICINE



William S. Spiegel

William S. Spiegel and **Marc R. Leffler** lectured to the **Columbia University College of Dental Medicine** on "*Risk Management and Dentistry*" in October 2019. They discussed various issues encountered in their litigation practice, including record keeping, informed consent, professional disciplinary hearings before state Dental Boards, standards of care in dentistry and other related topics. In addition, William and Marc were the keynote speakers at the **MedPro Dental National Brokers Meeting** in October 2019 in New York City. The presentation included an analysis of recent trends in jury verdicts and case valuation, in addition to portions of a mock trial.

William S. Spiegel is a partner in our **Midtown Manhattan, Jersey City** and **New Haven** offices. He represents healthcare providers in all medical specialty fields. He is a former Assistant Corporation Counsel to the City of New York – Medical Malpractice Division. He is a trial attorney with multiple verdicts in medical and dental malpractice, nursing home negligence and general liability actions. He has obtained defendants' verdicts in high-exposure trials in Bronx County, Kings County, Queens County, Richmond County and

New York County. Mr. Spiegel also represents physicians before the Office of Professional Medical Conduct and dentists before the Office of Professional Discipline. He has additional experience defending nurses, chiropractors, optometrists, psychiatrists, speech therapists, physical therapists, audiologists, massage therapists and medical clinics. He has successfully argued several appeals before the First and Second Departments. He also practices in the areas of premises liability, product liability, business and contract law and municipal liability. He is admitted to practice in New York, New Jersey and Connecticut, and also the U.S. District Courts for the Southern and Eastern Districts of New York and the U.S. District Court for the District of New Jersey. Mr. Spiegel has been selected as a 2019 **New York Super Lawyer** and is rated **AV Preeminent** by Martindale-Hubbell.

Bill can be reached at (212) 643-0200 • wspiegel@rawle.com

Marc R. Leffler is a partner in our **Midtown Manhattan** and **New Haven** offices. He practiced Oral Surgery in New York City from 1986-1997. In addition to being a board-certified oral and maxillofacial surgeon, Dr. Leffler is a seasoned trial attorney with a strong record of success at trial and as an appellate advocate. Since 1998, he has practiced law in the areas of dental and medical malpractice. He has tried many cases to verdict and has attained many significant verdicts on behalf of his clients. He also practices in the areas of premises liability, product liability and business and contract law. He is admitted to practice in New York and Connecticut, and also the U.S. District Courts for the Southern and Eastern Districts of New York. Dr. Leffler has been recognized by Martindale-Hubbell with a rating of **AV Preeminent** and has been chosen as a 2019 **New York Super Lawyer**.

Marc can be reached at (212) 643-0200 • mleffler@rawle.com



Marc R. Leffler

PAISBIG ANNUAL MEETING

John C. McMeekin II will be a guest speaker at the **Philadelphia Area Independent School Business Insurance Group (PAISBIG) Annual Meeting**. He will speak about the anticipated impact on schools as a result of a proposed change to the Pennsylvania Statute of Limitations regarding Abuse and Molestation.

Mr. McMeekin is a partner in our **Philadelphia** office and a member of the Firm's Executive Committee. He represents clients as local, national and trial counsel in environmental, toxic and mass torts, class actions, insurance coverage, and sexual abuse and harassment litigation. He graduated *magna cum laude* from the University of Baltimore School of Law. John is admitted to practice in Pennsylvania, New Jersey and Maryland and related U.S. District Courts. John is a former firefighter and emergency medical technician, and is Hazmat certified. He has been published in professional and law review journals on a variety of topics related to toxic tort and environmental litigation. He was recently elected Chair Elect of the American Bar Association Tort Trial & Insurance Practice Section. Mr. McMeekin has also served the American Bar Association as a Council Member, Section Secretary, the Section Revenue Officer, Chair of the Toxic Tort & Environmental Law Committee, Chair of the International Law Committee, and Chair of the CLE Board. In addition to his service with the ABA, Mr. McMeekin chaired the Philadelphia Bar Association Environmental and Toxic Tort Law Committee and has been a member of the Delaware Valley Environmental Inn of Court. His significant cases can be found in the *BNA Law Reports* and *Law360*. He is rated **AV Preeminent** by Martindale-Hubbell and has been selected multiple times as a **Pennsylvania Super Lawyer**.



John C. McMeekin II

John can be reached directly at (215) 575-4324 • jmcmeeekin@rawle.com

PITTSBURGH

Linda S. Judson has joined our **Pittsburgh** office as Of Counsel to the Firm. She has extensive experience in the area of workers' compensation litigation. With a strong background in healthcare and insurance, Linda assists her clients in all matters relevant to workers' compensation, including litigation, insurance policy review, reserve analysis, risk management, return-to-work programs and establishing healthcare panels. In her legal representation, she applies proactive case management strategies that utilize the rights afforded to employers under the Workers' Compensation Act. Linda began her legal career as a Clerk for the Commonwealth Court and subsequently worked in the field of risk management with an international brokerage firm. She is a frequent speaker on litigation strategies and claims management in workers' compensation matters.

Linda earned her J.D. from Duquesne University School of Law and her B.A., *cum laude*, in Political Science from the University of Pittsburgh. In addition, she earned an LPN from the Saint Francis Hospital Alvernia School of Practical Nursing in Pittsburgh, Pennsylvania. She is admitted to practice in Pennsylvania, the U.S. District Court for the Western District of Pennsylvania, and the U.S. Supreme Court.



Linda S. Judson

Linda can be reached directly at (412) 897-0452 • ljudson@rawle.com

PHILADELPHIA

Louis Hockman has joined our **Philadelphia** office as Of Counsel to the Firm. He is a seasoned trial attorney with broad experience serving as lead counsel in thousands of jury, non-jury and arbitration matters, representing large insurance, retail, restaurant, property management, banking and hospitality companies with consistent positive outcomes. He has received complete defense verdicts in diverse matters including a seven-week trucking trial with thousands of exhibits and multiple expert witnesses. He employs early case assessment to develop efficient cost-effective case resolution and trial strategy. Louis focuses his practice in the areas of general liability, casualty and premises liability, commercial litigation, professional liability, product liability, insurance coverage, commercial motor vehicle defense, employment relations, and appellate matters.

Louis earned his J.D., as well as an M.A. in Historic Preservation, from Boston University in 1988. He received his B.A. Degree from Dickinson College in 1984. He received an M.B.A. from Temple University Fox School of Business and Management in 2001. Louis is admitted to practice in Pennsylvania and New Jersey, and also the U.S. District Court for the Eastern District of Pennsylvania, the U.S. District Court for the Middle District of Pennsylvania, the U.S. District Court for the District of New Jersey, and the U.S. Court of Appeals for the Third Circuit. Louis is rated AV Preeminent by Martindale-Hubbell. Prior to joining Rawle & Henderson LLP, Louis was a partner with a mid-size Philadelphia civil litigation defense law firm.



Louis Hockman

Louis can be reached directly at (215) 575-4253 • lhockman@rawle.com