GOLDBERGSEGALLA



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Buffalo

PRACTICES

Product Liability
Class Action Litigation
Consumer Product Regulation

INDUSTRIES

Manufacturing
Consumer Products

Cheryl A. Possenti

PARTNER

EXPERIENCE

Cheryl A. Possenti is a founding partner of the firm and has more than 35 years of experience in the defense of complex personal-injury actions. A respected counselor to the makers of infant and toddler products, toys, bicycles, and other children's products, small-appliance manufacturers, and many others, Cheryl focuses on product-liability matters and related litigation and has extensive experience defending high-profile, high-exposure class actions and professional and medical malpractice claims. She helps clients navigate the regulatory terrain set forth by the Consumer Products Safety Commission (CPSC), the National Highway Traffic Safety Administration, and other agencies.

Cheryl assists clients in maintaining CPSC compliance, manages product safety litigation, helps coordinate effective product recalls – both limited and widespread – and advises on mandatory government reporting and the assessment of civil penalties. Over the course of the past 25 years, she has handled more than 200 issues involving the CPSC and serves as counsel to two of the world's foremost toy and children's products manufacturers.

Cheryl has handled various types of professional malpractice actions – including pharmacy malpractice, dental malpractice, physical therapy malpractice, veterinary malpractice, and nursing malpractice – as well as licensing and disciplinary actions for health care providers. She has also represented a number of major hospitals in medical malpractice cases as self-insured entities.

EXPERIENCE HIGHLIGHTS

Product Liability

Cheryl's successes in this area include gaining the dismissal with prejudice of a putative class-action lawsuit brought against a product manufacturer in the U.S. District Court for the Eastern District of Pennsylvania, a case she worked on with fellow Goldberg Segalla partner John P. Freedenberg.

Class Action Litigation

Cheryl's class-action successes include working with David S. Osterman to lead a team that helped a major U.S. based children's clothing supplier defeat a nationwide class action in California arising from the sale of certain garments that allegedly caused rashes and allergic reactions to sensitive children's skin.

HONORS & AWARDS

- Martindale-Hubbell Peer Review Rating: AV Preeminent
- *Best Lawyers in America*
  - Consumer Law, 2023-27
  - Personal Injury Litigation — Defendants, 2023-27
  - Product Liability Litigation — Defendants, 2015–27
- *Buffalo Business First: Power 200 Women*, 2024-25
- Upstate New York *Super Lawyers*, 2007–09, 2011–26

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- *Super Lawyers*, Corporate Counsel Edition
- *Buffalo Business First: Women of Influence*, 2011–18
- *Buffalo Business First: Who's Who in Law, Civil Litigation*
- American Lawyer Media and Martindale-Hubbell: Women Leaders in the Law, 2013, 2015
- Client Choice Award, 2014
- American Lawyer Media and Martindale-Hubbell: Top Rated Lawyer in Litigation, 2014

BACKGROUND

ADMISSIONS

- New York
- U.S. District Courts for the Western and Northern Districts of New York

EDUCATION

- University at Buffalo School of Law, J.D., 1982
  - *Buffalo Law Review*: Senior Editor
- State University of New York at Albany, B.A., 1978

PROFESSIONAL AFFILIATIONS

- Defense Research Institute (DRI)
  - Product Liability Committee and Children's Products Specialized Litigation Group: Panel Counsel Liaison, Past Chair
- American Bar Association
- Bar Association of Erie County
  - Negligence Committee and Health Law Committee
- International Consumer Product Health and Safety Organization (ICPHSO)
  - Board of Directors, 2024-2027
- The Toy Association
- Society of Product Licensors Committed to Excellence (SPLiCE), Past Board Member

COMMUNITY INVOLVEMENT

- Spaulding Lake Homeowners Association, Past President

PUBLICATIONS & EVENTS

PUBLICATIONS

- Product Liability Compendium: Warnings, Instructions and Recalls (3rd Edition) (Contributor) DRI Defense Library Series, April 2019
- Quoted in "Amazon Shows How Retailer Litigation Strategies Evolving," *Bloomberg Law*, May 10, 2017
- "Local Regulation of Consumer Products" (Co-Author), *Buffalo Law Journal*, June 18,

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2015

- Quoted in, "4 Things You Should Know About Product Recalls," *IndustryWeek*, June 8, 2015
- "Cheryl A. Possenti Named 2014 Client Choice Awards Winner"
- Quoted in "Local Law Firms Take International Approach," *Buffalo Law Journal*, May 27, 2014 (and *Buffalo Business First*, May 16, 2014)
- "Reporting Consumer Product Safety Issues to Regulatory Agencies Worldwide: The U.S., Canadian, and Australian Experience and Recent Trends in Civil Penalty Payments," *USLAW*, Fall/Winter 2012
- Quoted in "Surviving a Product Recall," *Bed Times*, February 2012
- "CPSC Power Expands: Legislation Brings Change to Consumer Products Industry" (Co-Author), *USLAW Magazine*, Spring/Summer 2009
- "Through Regulations and in Court: The 2008 CPSIA Starts to Take Shape" (Co-Author), DRI *For The Defense*, April 2009
- "Negotiating the Landscape of Increased Penalties under CPSIA" (Co-Author), DRI *For The Defense*, February 2009
- "The New CPSC Public Database of Incidents" (Co-Author), DRI *For The Defense*, December 2008
- "The Consumer Product Safety Improvement Act of 2008: Preparing for the Unknown and the Unknowable" (Co-Author), DRI *For The Defense*, October 2008
- "Product Recalls Stir Public Sentiment" (Co-Author), *USLAW Magazine*, Spring/Summer 2008
- U.S. Product Safety Issues; Chapter 3, *International Corporate Legal Guide to Product Liability*, 2003 Global Legal Group
- "Limiting Products Liability Damages: Your Role as the Seventh Juror" (Co-Author), *The Practical Litigator*, Vol. 2, No. 2, American Law Institute – American Bar Association, March 1991. This was presented at the DRI 1989 Seminar and was again presented for the January 1998 ALI-ABA course on the Appellate Process.
- "Punitive Damages, Economic Loss and Hedonic Damages," DRI Coursebook Materials, Chapter Q. Ms. Possenti presented this paper before a national audience of defense attorneys and self-insurers as part of a three-day DRI seminar in New Orleans, February 1991.
- "Cross-Examination of the Technical, Medical Witness" (Co-Author), Preparing for and Trying the Civil Lawsuit, Chapter 11, Supplement, New York State Bar Association, 1991
- "Innovative Techniques for Litigation in the '90s, Document Retention Destruction Systems, Videotaped Reenactment Depositions, Novel Use of Trade Secret and Copyright Law Protection and Other High Dividend Approaches," DRI Coursebook materials, Chapter C., DRI Seminar, January 1990
- "The Seventh Juror Marches On: Mitigating Damages in the Personal Injury Case" (Co-Author), *For The Defense*, DRI, Vol. 31, No. 12, December 1989

PRESENTATIONS

- "The CPSC's Regulatory Authority," (Faculty Instructor, Webinar Series), 2023 Society of Product Safety Professionals (SPSP), Consumer Product Safety Professionals Certification Course, Virginia Tech Center, Arlington, VA, April 6, 2023
- "Keeping Safe While Changing Lanes: Resources and Successful Tactics for Getting Up to Speed on Product Safety Issues when Changing Industries, Products or Perspective," (Moderator), 2022 ICPHSO Annual Meeting and Training Symposium, National Harbor, MD, February 16, 2022
- "Litigation Risks and Issues Arising from New CPSC Standards Regarding Safe Sleep and

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the Safe Sleep for Babies Act," DRI Product Liability Conference, Las Vegas, NV, February 4, 2022

- "Sounds Good but Will it Work? Using Scientific Methods to Objectively Evaluate Product Warnings and Safety Information for Cutting Edge Products and those Without Mandatory Warnings," (Moderator), 2021 ICPHSO Annual Meeting and Training Symposium, Virtual Meeting, February 23, 2021
- "Your Money or Your Brand: Ensuring the Safety of Licensed Products Without Exposing Your Company to Unwanted Risks," (Presenter) 2020 ICPHSO Annual Meeting and Training Symposium, Orlando, FL, February 19, 2020
- "Optional Safety Equipment: Responding to Plaintiff Arguments that Optional or after Market Add-on Products are Mandatory," DRI Product Liability Conference, New Orleans, LA, February 6, 2020
- "What's New? CPSC and Regulatory Updates," (Presenter) SPLiCE Town Hall, Buffalo, NY, August 7, 2019
- "A Computer Generated Reality is Worth 1,000 Words," (Moderator) International Consumer Product Health and Safety Organization (ICPHSO) 2019 Annual Meeting and Training Symposium, Washington DC, February 26, 2019
- "United States Update on Product Liability Issues" (Co-Presenter), Cunningham Lindsey Seminar, Taipei, Taiwan, October 19, 2018
- "Yesterday, Today and Tomorrow: How Burgeoning Access to Information Has and Will Impact Consumer Expectations for Product Safety," International Consumer Product Health and Safety Organization (ICPHSO) 2018 Annual Meeting and Training Symposium, Orlando, FL, February 22, 2018
- "From the Outside Looking Back in" DRI Product Liability Conference, Children's Products Panel Counsel Meeting, San Diego CA, February 7, 2018
- Panelist, "Jurisdictional Reporting Requirements," International Consumer Product Health & Safety Organization, 2017 North America Regional Product Safety Training Workshop, Toronto, ON, June 28, 2017
- "CPSC Update: Current CPSC Issues, Concerns, and Changes," 2017 IEEE Symposium on Product Compliance Engineering, San Jose, CA, May 9, 2017
- "How Much are Non-Manufacturers Responsible for Trying to Reduce the Risk of Products They Sell," International Consumer Product Health and Safety Organization (ICPHSO) 2017 Annual Meeting and Training Symposium, Orlando, FL, February 22, 2017
- "No Good Recall Goes Unpunished: Dealing with the Press, Litigation, and Investigations in the Aftermath of a Recall," DRI Product Liability Conference, Las Vegas, NV, February 10, 2017
- "Product Liability Law in the United States," Cunningham Lindsay Hong Kong (Taiwan Branch), Taipei, Taiwan, October 21, 2016
- "Cyber Security Issues and Product Liability in the United States" (Co-Presenter), Cunningham Lindsay Annual Forum, Taipei, Taiwan, October 2016
- "A Day in the Life of Compliance Within a Sea of Marketing: Quality and Compliance Management Processes that Impact Brand Licensing Programs," Society of Product Licensors Committed to Excellence Licensor's Workshop, September 14, 2016
- "Product Safety, Second Hand Marketing and Licensing: Stakeholders' Perspectives," International Consumer Product Health and Safety Organization (ICPHSO) 2016 Annual Meeting and Training Symposium, Washington, D.C., March 1, 2016
- "Trends and New Developments in Multimillion Dollar Civil Penalties Announced by the CPSC and Strategies to Avoid Them," DRI Product Liability Seminar, Consumer Goods and Office Equipment Specialized Litigation Group, New Orleans, LA, February 3, 2016
- "When Do You Stop Protecting Your Brand? Legal Implications," Society of Product Licensors Committed to Excellence Licensor's Workshop, October 1, 2015

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- "Diligently Partnering with the CPSC to Avoid Problems and Penalties and to Enhance Product Safety," USLAW Fall 2015 Client Conference, Boston, MA, September 19, 2015
- "Where and When In The World Do We Report This? Exploring Mandatory Safety Reporting in the U.S., Canada, Australia and E.U.," International Consumer Product Health and Safety Organization (ICPHSO) 2015 Annual Meeting and Training Symposium, Orlando, FL, February 26, 2015
- "Product Liability Law in the United States," Cunningham Lindsay Hong Kong (Taiwan Branch), Taipei, Taiwan, October 23, 2014
- "Product Liability Law in the United States," Shenzhen Institute of Insurance, Shenzhen, China, October 21, 2014
- "Product Liability Law in the United States," Ping An Insurance Company, Shenzhen, China, October 20, 2014
- "The 'Negligent Recall': A Perspective from Outside Counsel," Association of Home Appliance Manufacturers (AHAM) 2014 Product Safety & Liability Seminar Conference, Washington, D.C., September 30, 2014
- "Establishing a Safety Culture in Your Company," ICPHSO Midwest Regional Product Safety Training Workshop, Richfield, MN, September 11, 2014
- "What's in Store for Children's Product Industry, Given the Growing Aggressiveness of the CPSC and Health Canada," DRI Product Liability Seminar, Children's Products Specialized Litigation Group, Phoenix, AZ, April 9, 2014
- "Product Liability Law in the U.S.," Peoples Insurance Company of China, Shanghai, China, May 2013
- "Product Liability Law in the U.S.," Cunningham Lindsey Hong Kong (Taiwan Branch) and Cunningham Lindsey China Co., Ltd. (Shanghai), October 2012
- "Ensuring Compliance With Consumer Product Safety Commission Reporting Requirements and Safety Incident Reporting Requirements in Canada and Australia," Society of Product Licensors Committed to Excellence (SPLiCE) Licensing Workshop, September 2012
- "Doing Business in the U.S. vs. Europe Series: Product & Toy Safety Regulation Update," European American Chamber of Commerce New York, May 24, 2012
- "Product Liability Law Overview: Planning and Conducting a Recall or Retrofit," American Bar Association Tort, Trial and Insurance Practice Section, International Products Liability Committee and China Council for the Promotion of International Trade, Beijing, China. International Seminar Series: "Doing Business in the United States: What You Need to Know About Investing," Product Liability and Dispute Resolution, April 2012
- Moderator, "Sharing the Sandbox: Playing Nicely with Retailers, Insurers, Competitors and Co-defendants," DRI Children's Products Joint Panel Counsel Conference, DRI Annual Product Liability Seminar, April 2012
- Moderator, "Consumer Product Safety Commission Database," DRI Product Liability Seminar, Children's Products Panel Counsel Meeting, April 5, 2011
- "Minimizing Potential Product Liability Risks from Drug and Device Recalls," American Conference Institute, Summit on Drug and Device Product Recalls, March 2011
- "Social Media and Consumer Product Incident Databases: Navigating Your Legal Practice and Your Clients through the Sea of Social Discourse," American Bar Association Conference Institute, Women in Product Liability Regional CLE Workshop, November 2010
- "CPSIA Updates and Building Sustainable Systems to Manage the 2011 Searchable Consumer Product Incident Database," Society of Product Licensors Committed to Excellence (SPLiCE) Licensors Workshop, October 2010
- "CPSC Searchable Consumer Incident Database," Society of Product Licensors Committed to Excellence (SPLiCE) Licensors Workshop, September 2009
- "Life Cycle of a Lead Paint Recall," DRI Product Liability Seminar, Children's Products

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Specialized Litigation Group, April 2009

- "Consumer Product Safety Improvement Act of 2008," Product Responsibility Panel, Society of Product Licensors Committed to Excellence (SPLiCE) Licensors Workshop, September 2008
- Co-Chair, DRI Children's Products Specialized Litigation Group Session and Children's Products Panel Counsel Session at DRI's Annual Product Liability Seminar, February 2007
- "CPSC Investigations-Corporate Handling and Response," Federation of Defense and Corporate Counsel Symposium, "Protecting the Corporation in a Hostile Environment: New Challenges for In-House Counsel," September 2006
- Presenter and Co-Chair, DRI Children's Products Specialized Litigation Group Session and the Children's Products Panel Counsel Session at the DRI Annual Product Liability Seminar, February 2006
- "Legal Aspects of Crisis Management," Society of Product Licensors Committed to Excellence (SPLiCE) Licensing Workshop, September, 2005
- "Licensor Liability, the Price to Pay when Selling your Company's Good Name Instead of its Products," DRI Product Liability Seminar, Children's Products Specialized Litigation Group, February 2005
- "Age Grading Advice; The Legal Perspective," presented at Toy Industry Association, Inc. 2004 Multi-Discipline Conference, July 2004
- "Head Injury Criteria Parameters in Defending the Juvenile Product Case," DRI Product Liability Conference, February 2004
- "Punitive Damages, Economic Loss and Hedonic Damages," DRI Coursebook Materials, Chapter Q. Ms. Possenti presented this paper before a national audience of defense attorneys and self-insurers as part of a three-day DRI seminar in New Orleans, February 1991.
- "Innovative Techniques for Litigation in the '90s, Document Retention Destruction Systems, Videotaped Reenactment Depositions, Novel Use of Trade Secret and Copyright Law Protection and Other High Dividend Approaches," DRI Coursebook materials, Chapter C., DRI Seminar, January 1990

WEBINARS

- "Lithium-Ion Battery Technology: Design 101 and Litigation/Regulatory Issues," (Co-Presenter), GS Webinar Series, September 21, 2023
- "Consumer Product Safety Commission Update: What Manufacturers and Sellers Need to Know," (Co-Presenter), GS Product Liability Webinar, November 6, 2019
- "CPSC Regulatory Updates: What's New?" SPLiCE Membership Webinar, March 7, 2018
- "CPSC Regulatory Updates: What's New?" SPLiCE Membership Webinar, October 4, 2017
- "CPSC Regulatory Updates: What's New?" SPLiCE Membership Webinar, July 19, 2017
- "CPSC Regulatory Updates: What's New?" SPLiCE Membership Webinar, January 11, 2017
- "CPSC Regulatory Updates: What's New?" SPLiCE Membership Webinar, November 2, 2016
- "CPSC Regulatory Updates: What's New?," SPLiCE Membership Webinar, January 7, 2016
- "CPSC Developments," SPLiCE Membership Webinar, November 14, 2014
- "CPSC Regulatory Updates: "What's New?" SPLiCE Membership Webinar, January 9, 2015
- "CPSC Regulatory Updates: What Your Company Needs To Know," SPLiCE Membership

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Webinar, July 11, 2014