



PRACTICE GROUP CHAIRS

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PROFESSIONAL LIABILITY

We take our commitment to client service very seriously, so we know firsthand the effort that it takes for professionals (including attorneys, physicians, accountants, architects, engineers, surveyors and other design professionals, and corporate directors and officers) to serve their clients. But we also understand that even good practices — if they lead to a bad result — can expose a professional to a claim of failing to perform up to the good and accepted standards, customs, and practices of their respective professions.

At Goldberg Segalla, our lawyers have a wealth of experience handling all manner of professional liability claims and cases. They include recognized leaders across many areas of professional liability law who have written and lectured extensively on the legal issues professionals face. Just as importantly, our seasoned attorneys have extensive trial backgrounds, and the proven capability to bring your matter to successful conclusion through verdict.

As with all of our practice philosophies, our approach is intense and sophisticated, yet always pragmatic. We work together with our clients in an effort to develop the most efficient results and best possible outcomes.

Visit our *Professional Liability Matters* blog for the latest legal developments and risk management tips impacting the professional liability community.

ACCOUNTANTS

With financial fraud a fixture in the news, accountants are facing hostile scrutiny as never before. The traditional deference afforded to their profession has become a quaint relic of a more genteel age, not likely to be seen again. The gloves are off.

Goldberg Segalla understands this dynamic. Our professional liability practice group understands the challenges faced by auditors, tax preparers, valuation professionals, business consultants and other practitioners. Goldberg Segalla's accountants' professional liability lawyers are often engaged to protect and defend accountants – including Top 20 firms – in professional liability lawsuits.

In addition to our frequent court appearances on behalf of accountants, we routinely counsel these professionals on matters affecting their day-to-day practice. For example, we present continuing education on the *Code of Ethics*, as well as standard of care issues that are known to snare unwary practitioners. We also advise our clients on difficult matters such as conflicts of interest, disengagements and non-engagements, billing issues, requests for comfort letters, SEC disclosures, AU Section 561 disclosures, communications with successor firms, and the discovery of client fraud and its aftermath.

Accounting professionals from time to time receive third-party subpoenas in civil matters, federal and state grand jury subpoenas, administrative inquiries and other third-party communications. Goldberg Segalla understands the sensitivity of these events, and handles each such matter with discretion and diplomacy. Our clients can trust that we will take every available measure to protect and preserve their confidence, as well as their reputations.

Practice group leader Jonathan S. Ziss is sought after as a lecturer on CPA risk management and professional standards compliance. He has been involved in several hundred matters involving

accountant professional liability issues. He is also a frequent columnist on these topics.

ARCHITECTS, ENGINEERS, AND DESIGN PROFESSIONALS

Good legal representation, as with good design, is rooted in an understanding of your client's needs, including their programmatic requirements, budget, and schedule. Only with this understanding can an attorney — or a design professional — formulate a proper plan. This begins with assessing immediate needs and anticipating risks; it involves the crafting of contracts, policies, procedures, and other documents for any eventuality; it calls for planning and executing strong defenses in the event of litigation — and it always requires service on time and within a budget.

Our attorneys like to think in these terms — perhaps because so many of them have a passion for design and construction, fostered over the course of long and successful relationships with clients in those fields. And our track record shows that that mentality works. With a culture committed to professionalism, collaboration, and vigorous defense, we've counseled clients through all types of design and construction claims and concerns, and have even helped rewrite the law at the appellate level in favor of the design professional community.

We counsel and defend clients including:

- Architects
- Engineers
- Land surveyors
- Energy firms
- Environmental engineers and consultants
- Professional liability insurers

Whether you're planning for a project, preparing a proposal, negotiating a contract with an owner, hitting a snag during construction, or facing claims long after completing a job, we have the knowledge and experience to help.

Protecting Your Profession

According to a popular story, when a prospective client visited one of Frank Lloyd Wright's houses and noted that the roof was leaking, the owner replied, "That's what happens when you leave a work of art out in the rain."

Unfortunately, clients of today's design professionals are less forgiving. They often seek to hold the design professional to a standard of perfection rather than reasonable professional care. Litigation over damages, delays, payments, selection of materials, environmental issues, intellectual property rights, or other client complaints could lead to lengthy and unforeseen expenses, prematurely end important projects, and do irreparable damage to a firm's reputation or an individual's career. At the same time, the development of new technologies and design alternatives, increasingly frequent movement of insurance carriers among industries and types of projects, and complications arising out of contractor-led design-build and other project delivery methods all burden any infant project with dozens of potential risks.

We understand those pressing concerns, because we're committed to your industry and profession. Our team includes leaders and members in these and other organizations:

American College of Coverage and Extracontractual Coverage (ACCEC)
American Council of Engineering Companies (ACEC)
American Institute of Architects (AIA)
Construction Financial Management Association (CFMA)
Construction Specifications Institute (CSI)
Defense Research Institute (DRI), including a former National Chair of the Construction Law
Committee
Federation of Defense and Corporate Counsel (FDCC)
Professional Women in Construction (PWC), including a Board of Directors member
Various state and regional development associations and committees

Comprehensive Defense for Design Professionals

When design error or construction phase service claims arise, we bring extensive experience protecting clients against claims involving issues and allegations including:

- Design defects and omissions
- Negligent provision of construction phase services including submittal and payment application review
- Delay claims
- Faulty or defective material specification
- Indemnification and contribution
- Professional negligence

We have advised and represented clients in design-build and design-bid-build matters, in traditional projects and ones involving unusual complications and emerging technologies and risks. We've successfully litigated multimillion-dollar, high-exposure matters as well as sensitive but "smaller" dollar-number matters in which the greatest risks pertained to a client's reputation and ability to continue working.

In all cases, we follow Louis Sullivan's old adage that form fits function. We don't offer cookie-cutter solutions, and we eschew expensive and inefficient "Big Law" litigation tactics. Instead, we build each strategy, each defense, and each document to suit our client's immediate and long-term needs, rooted in an understanding of and respect for the work that they do. Simply put, we help our clients manage the risks associated with practicing in a rapidly changing marketplace where not only designs, but also contractual requirements, delivery methods, and insurance coverages are constantly evolving.

Experienced Representation for Environmental Engineers and Consultants

Many of our attorneys have rich experience in environmental matters, and have earned Goldberg Segalla a reputation as home to thought-leaders in environmental law and case law, environmental regulatory matters, environmental catastrophe response, and the legal and practical concerns of professionals in fields including renewable and nonrenewable energy.

We are equipped to counsel and defend clients in matters including:

- Regulatory compliance and self-auditing
- Permit applications

Environmental strategy development, proactive measures to minimize liability, and preemptive solutions to changing laws

Preparing for and responding to government inspections and enforcement actions

Zoning and land use issues

Emerging environmental, liability, and coverage issues for an array of industries connected with hydrofracking

Environmental aspects of transactions, including environmental review, due diligence, and commercial loan closings

Waste management issues and hazardous waste remediation, including community outreach to landowners

Spill or accident remediation and cost-recovery litigation

Litigation to defend against the full range of environmental claims

Our experience includes matters involving the full range of applicable federal and state agencies and regulations, including:

U.S. Environmental Protection Agency (EPA)

Consumer Product Safety Commission (CPSC)

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

Resource Conservation and Recovery Act (RCRA)

Clean Air and Clean Water Acts

Spill Prevention, Control, and Countermeasure Plans (SPCC) for oil spills

State environmental protection agencies, laws, and regulations

Several members of our team have background experience in environmental science, meteorology, consulting, wastewater treatment, and other disciplines, providing increased efficiency and greater understanding of the technical and scientific challenges facing our clients.

Cyber Liability and Emerging Risks

Aside from leaks, quips, and clean horizontal lines, we also remember Wright for predicting the needs and desires of the people who would use his buildings many years in the future. In fact, he said that only a person who “can think ten years ahead” deserves to be called an architect.

Since Wright’s day, design professionals have been at the forefront of emerging technologies, including data storage and access, unmanned aerial systems (drones), renewable energy sources, and design software. As such, architects, engineers, land surveyors, and construction professionals have been exposed to some of the first lawsuits arising from these evolving technologies and evolving laws.

The number-one emerging risk for design and construction professionals is cyber liability, including the protection and management of electronic data. Design professionals now routinely command vast amounts of confidential electronic client data and bear the responsibility to limit access to and ensure the security of that information, creating a growing risk of exposure for lost or stolen information. At the same time, design professionals are often expected to share their work product freely with a large project team, in the name of efficiency and collaboration, often in an electronic form easily misread or manipulated, creating confusion and the opportunity for error.

Drones, nanotechnology, emerging environmental concerns, and new design and construction techniques also pose risks. As architects, engineers, land surveyors, and other design professionals push out into new practice areas, dealing with new conditions, structures, and technologies, we help them look ahead and move forward with confidence. Our clients are pioneers and innovators in their fields — which means we have to keep ahead of the latest case law and regulatory developments, anticipating risks before our clients begin a project and, in the event of litigation, trying and winning cases of first impression.

Many of our attorneys have become thought-leaders on issues including:

- Cyber liability and data breaches
- Internet publishing and intellectual property
- Emerging technologies, including nanotechnology and 3-D printing
- Integration of unmanned aerial systems (drones) into project management
- Environmental engineering and renewable energy
- Design-build project delivery

We're also able to keep our clients continually up-to-date with in-depth analysis of industry trends, frequent seminars and presentations, and alerts about important developments.

Proactive Counsel from Conception to Completion

We are professional liability counselors and litigators with a passion for architecture, engineering, and design — but we're also a team of construction litigators, insurance litigators, business and transactional counselors, and appellate practitioners. We apply to every matter our deep understanding of each client's business, values, and objectives, providing proactive, risk-minimizing counsel throughout all phases of a project — from initial conception and design all the way through completion and beyond. We seek to minimize expenses and exposure, protect our clients' reputations, and look beyond individual matters to the "big picture" of each client's legal needs.

Because of the collaborative culture of our firm we're also well-equipped to offer cost-effective solutions to other problems our clients face, beyond professional liability matters — including employment and labor concerns, regulatory compliance, leasing and zoning, intellectual property and internet publishing, environmental and toxic torts, government and partnership issues, and other transactional needs. When design professionals choose us, you're tapping in to a dynamic network of accomplished, trial-tested attorneys, and can count on the full range of our firm's experience.

Representative Matters

Representation of an architect in a claim brought by a senior living condominium association in New Jersey. The plaintiff alleged that the 714 units and the clubhouse were leaking and were otherwise designed and constructed improperly. More than 50 co-defendants asserted cross-claims asserting that same allegation. Our client was responsible for drafting the construction documents and there was an issue of fact as to whether the architect also had or otherwise performed construction administration services. We achieved a settlement on behalf of the client for less than 10 percent of the plaintiff's initial demand from our client, amounting to approximately 1 percent of the value of all claims alleged.

Representation of a geo-environmental engineer in a construction defect claim involving the new

construction of a high school in New Jersey. The plaintiff claimed that our client negligently performed its services and failed to detect hazardous materials in the soil, resulting in millions of dollars of actual damages and delay costs. On behalf of our client we reinstated the application of the economic loss doctrine in the state of New Jersey and following our successful motion for dismissal of the case against our client at the trial level and a lengthy appeal, the client decided to settle the case for \$125,000 to avoid further business interruption, negative publicity, and litigation costs.

Representation of an architect alleged to have negligently designed and negligently performed construction administration services on a newly built library on eastern Long Island. After demonstrating that the water infiltration and damage to the library was a construction error, the case settled for pennies on the dollar at binding arbitration.

Representation of an engineer alleged to have negligently accounted for roof loads on a newly constructed commercial space in New York. We successfully moved to have all claims and cross-claims against our client dismissed.

Representation of an architect and his firm in a suit alleging design defects causing damaging leaks at a major religious pilgrimage site attracting thousands of visitors from around the globe each year. The alleged design defect occurred during a \$6 million renovation of the site; alleged damages exceeded \$1 million, according to the plaintiff's expert witness. That witness, however, was also the plaintiff's architectural consultant on the project, and approved the alleged design defect.

Representation of design professionals in multiple personal injury matters.

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DIRECTORS AND OFFICERS

As business leaders increasingly find themselves the targets of aggrieved investor and whistleblower lawsuits — a condition that only worsens as the global markets grow more uncertain and volatile — insurers, companies, and executives turn regularly to Goldberg Segalla to handle their director and officer liability defense.

Comprising leading trial lawyers and complex commercial litigators whose breadth of knowledge, talent, and experience sets them apart, our team successfully represents directors and officers in high-value disputes throughout the U.S., in both federal and state courts, and around the world.

With members that include the current chair of the American Bar Association (ABA) Professionals, Officers, and Directors Liability Committee, and a number of complex commercial litigators trained at AmLaw100 firms but ingrained with the Goldberg Segalla ethos of providing efficient and cost-effective solutions, our team provides extraordinary capability and value when defending directors and officers, executives, and their respective enterprises.

The quality of our work in D&O professional liability lawsuits and other commercial matters continually earns our Corporate Services and Commercial Litigation Practice Group regional placement in *Chambers USA* Commercial Litigation directories and other leading law firm rankings, with *Chambers*

commentary noting our team acts for “a variety of prominent clients throughout the USA.”

Our D&O clients include both public and private companies, nonprofit entities, governmental divisions, investment trusts, limited and general partnerships, and homeowner’s associations. One of the areas in which our team is particularly adept (and recognized by the *Chambers USA* editors) is financial services, where companies and officials face civil and administrative litigation brought under federal and state banking, consumer, and securities laws and regulations. We bring not only extensive experience litigating claims involving these rules and statutes, but also a thorough understanding of the individualized concerns and nuanced needs of public as well as privately held financial institutions.

While our goal is to avoid litigation whenever possible, when necessary, our attorneys prepare comprehensive, business-minded strategies to zealously defend against the claim. We employ creative and results-oriented pre-suit negotiations and pre-answer motions to resolve disputes at the earliest possible stage. Most importantly, we work with our clients to tailor and achieve cost-effective and efficient resolutions of all D&O disputes at every step along the way.

Our team of attorneys with nationwide and global experience is here to:

- Resolve complex, high-exposure commercial and fraud-based disputes on behalf of businesses and their executives and board members

- Conduct pre-suit investigations and pre-trial settlement negotiations

- Defend against regulatory investigations and enforcement by state and federal agencies

- Litigate or arbitrate any dispute that cannot be resolved through negotiation or mediation in cases involving single-plaintiffs or class actions, as well as derivative actions

- Advise on litigation and regulatory risk, conduct internal investigations, and provide best-practices training to avoid pitfalls that can lead to litigation and regulatory action

- Provide data privacy regulatory guidance on compliance with the evolving requirements placed on companies and their officials in various industries to protect their networks and data

While no two D&O suits are the same, our lawyers have a broad base of experience in the traditional risks associated with changes in corporate ownership, mergers and acquisitions (strike suits), executive compensation, IPO or private offerings, antitrust, business torts, trade practices, intellectual property and trade secrets, bankruptcy, whistleblower actions, commercial fraud, and regulatory investigations.

Goldberg Segalla’s D&O attorneys are leaders in the professional discourse relating to trends and emerging issues impacting the D&O and financial institutions marketplace. For example, our team includes the chair of the American Bar Association’s Professional Liability Insurance Committee (formerly the Committee on Professionals, Officers, and Directors Liability), along with nationally recognized authors and lecturers about D&O and other professional liability topics, arbitrators and mediators who handle D&O cases, and adjunct legal professors.

EMPLOYMENT PRACTICES LIABILITY (EPL)

At Goldberg Segalla, we serve the needs of employers of all types and sizes throughout the Northeast and the entire United States. We partner with our clients to manage their day-to-day employee relations issues with an emphasis on preventing litigation. Our attorneys are committed to a team approach that emphasizes working closely with management to assure that its goals and philosophies are advanced.

When litigation cannot be avoided, we bring our extensive experience working with companies in a variety of industries and employment practices liability (EPL) insurance carriers to defend against a wide range of claims before administrative agencies, in state and federal courts, and through various forums of alternative dispute resolution.

We often represent employers before federal agencies such as the U.S. Equal Employment Opportunity Commission and the Occupational Health and Safety Administration, as well as all appropriate state agencies dealing with harassment, discrimination, retaliation, family medical leave, and unemployment. Our team has exceptional experience handling wage and hour claims, wage payment issues, and Fair Labor Standards Act litigation on an individual and collective action basis.

We routinely defend claims involving the full range of employment issues, including:

- Age Discrimination in Employment Act
- Americans with Disabilities Act (including Title III)
- Background checks
- Civil Rights § 1981 and § 1983 claims
- Class and collective actions
- COBRA
- Collective bargaining
- Disciplinary proceedings
- Discrimination claims: Title VII, state, and city anti-discrimination laws
- Drug and alcohol testing
- Employee benefits
- Employment agreements
- Equal Pay claims
- Fair Labor Standards Act and state wage hour laws
- False Claims Act
- Family and Medical Leave Act and state counterparts
- Handbooks and personnel policies
- Immigration
- Internal investigations
- National Labor Relations Act
- Occupational Safety and Health Act
- Older Workers Benefits Protection Act
- Restrictive covenant agreements
- Restrictive covenant litigation
- Retaliation and whistleblower claims
- Severance agreements
- Unemployment
- Vietnam Veterans Employment and Reemployment Act
- WARN Act and state counterparts
- Workplace violence
- Wrongful discharge

HEALTH CARE PROFESSIONALS

Goldberg Segalla attorneys have a long and successful history of defending physicians, hospitals, nurses, physician's assistants and other health care professionals. In fact, a number of our seasoned litigators have health care backgrounds, including former in-house counsel, long-term care company board members, and a former paramedic. They put that experience to use in the courtroom.

Our trial-tested litigators have defended claims of obstetrical malpractice, improper surgical technique, neurologic misdiagnosis, psychiatric treatment and a variety of hospital in-patient claims. They have tried to verdict scores of medical malpractice cases. These years of experience have helped us develop an extremely valuable database of expert witnesses to call upon and of experts commonly retained by plaintiff's attorneys. This database is essential in developing effective cross-examination of opposing expert witnesses based upon testimony they have given in other cases.

Our attorneys are deeply involved with the constant refinement of their trial technique and knowledge of current medical science with service on the Steering Committee of the Defense Research Institute's Health & Medical Liability Committee, which has over 2000 members nationally. They have spoken at its national annual conference to hundreds of trial attorneys and health industry professionals on the subject of advanced trial technique in the defense of medical malpractice cases.

The cases we have handled have made new law upon which future cases will be decided. We tried the case of Kambat v. St. Francis Hospital, the leading case citation in New York's Pattern Jury Instructions on the subject of *res ipsa loquitur*, a legal concept applied when an unintended medical outcome can ostensibly have no explanation other than professional error. Although the first jury unanimously found in favor of our client, on appeal to New York's highest court the case was remanded for a second trial to be conducted with the *res ipsa loquitur* jury instruction, which essentially tells a jury to find for the plaintiff if the medical outcome could only be explained by medical error. On retrial, a second jury also unanimously found for our client. The case was considered significant enough to receive front page treatment in the *New York Law Journal*, New York's leading law publication, and to be addressed in tort law textbooks used in law school curricula. In another case which received national media attention, we defended a hospital at which a nurse had euthanized extremely ill elderly patients and was convicted and imprisoned. The hospital's liability for these actions turned upon its supervision and knowledge of the activities of the nurse, and we directed the in-house investigation which was essential to establishing defenses to the multiple wrongful death claims.

Our lawyers work with the leading medical expert witnesses in the United States while developing defenses for our clients. For example, in a recent case we retained a leading neurologist who had previously been retained by the State of Florida as its independent medical expert in the widely publicized Terri Schiavo 'right to die' life support case. The central issue in our case, in which we represented a major medical center, turned upon this expert's testimony and represented a potential multi-million dollar swing in the jury verdict, depending upon whether the patient could receive an award for conscious pain and suffering. The use of this expert was critical in demonstrating the absence of cognition. These issues are representative of the complexity of the cases our health care clients entrust to us.

We anticipate the manner in which the development of widespread use of electronic patient records, HIPAA law and health insurer subrogation claims may impact our clients and counsel them so they are prepared for the effects of these changes in the health care industry. We volunteer to teach medical students at medico-legal seminars to advance their knowledge of their legal obligations, for the benefit of their patients and their practices. In short, we are active in every important aspect of the advancement of

current medico-legal thinking and our attorneys bring that to bear for the benefit of every client we have the privilege to represent.

INSURANCE AGENTS AND BROKERS

Goldberg Segalla attorneys have successfully represented insurance agents and brokers in hundreds of errors and omissions claims and lawsuits on a regional and national basis. Our experience includes the representation of insurance agents and brokers in errors and omissions claims arising out of both first-party and third-party claims, in connection with placements in the excess and surplus lines market, as well as personal lines, commercial lines, professional liability, umbrella excess, and workers' compensation coverage.

The attorneys in the firm's Professional Liability Practice Group have experience in the highly specialized law, strategies, and techniques required to achieve prompt, outstanding, cost-effective results in the defense of insurance agents and brokers. There is an art and a science to defending these claims, and Goldberg Segalla's attorneys are well-versed in both. Our attorneys who specialize in agent and broker E&O defense are not only highly successful litigators, but also acknowledged leaders in the field who have lectured extensively on agent/broker E&O issues and authored guiding texts and numerous articles on the topic.

An additional strength of the firm's insurance agent and broker E&O defense practice is our ability to collaborate creatively with and draw on the deep experience of our industry-acclaimed Global Insurance Services Practice Group, which is available to quickly and accurately identify any and all relevant coverage issues and arguments, and any alternative sources of coverage for the underlying claim. Moreover, when an E&O lawsuit is brought due to an underlying liability claim, such as a labor law claim in the construction industry, Goldberg Segalla attorneys in other practice segments are available to lend their experience to resolve the underlying liability claim in alignment with the interests of the insurance agents and brokers and their E&O insurers. In addition, we complement these services with the work of our insurance regulatory practice, which provides guidance for insurance producers and other intermediaries in the insurance industry on the full range of regulatory challenges they face.

While we take great pride in our E&O defense capabilities, we don't just defend E&O claims — we actively assist our clients in trying to prevent them. It is our mission to provide insurance agents and brokers and their E&O insurers with cutting-edge, practical errors and omissions loss control advice and to help them implement those techniques. In the event of an errors and omissions claim or lawsuit, Goldberg Segalla attorneys work closely with the agents and brokers as well as claims representatives and claims counsel to swiftly develop and implement a winning strategy while keeping down both indemnity and defense dollars. Our "roll up your sleeves" approach includes meeting personally with agency principals and personnel. There our attorneys memorialize recollections of the insurance transactions and identify and secure the relevant documentary and computerized evidence, as well as key agency practices and procedures in order to craft a superior defense. From our first meeting with the agency to the time we conclude the E&O claim or lawsuit, we are highly cognizant and sensitive to the fact that agents and brokers are often caught in the middle between the relationships that they have with their customers and the involved insurers. We understand those relationships and the contractual agency agreements that may govern them.

Not only are we deeply committed to continuously improving our knowledge and experience of the prevailing law, we are determined to shape it so that it is as favorable to insurance agents and brokers as possible. In addition, we are committed to updating our knowledge of the business issues that face

insurance agents and brokers, including changes in the insurance industry and industry technologies. These changes affect insurance agencies' and brokerages' errors and omissions exposures and call for updated loss control techniques.

Goldberg Segalla is also available to represent insurance agents and brokers individually, including with respect to errors and omissions loss control and prevention seminars and audits, and to assist the insurance agents and brokers in obtaining insurance coverage for claims on behalf of the customers against the insurance agency or brokerage.

LAWYERS

It is the case within the case.

Goldberg Segalla attorneys have decades of experience successfully representing attorneys in thousands of first party and third party claims and lawsuits. Our trial-tested litigators have defended claims of negligence, breach of fiduciary duty, breach of contract, negligent and intentional infliction of emotional distress, fraud, violations of unfair trade practices, theft, slander, negligent and intentional misrepresentation, vexatious litigation, violations of the Fair Debt Practices Act, and more. Goldberg Segalla understands the special concerns and issues involved in the defense of attorneys and law firms. Our attorneys spend the time with our attorney clients to ensure that they have a thorough understanding of the legal process, the claims, the defenses and the defense plan.

Legal malpractice claims require early and thorough investigation to identify issues as well as to locate, safeguard and preserve information relating to the claim. Goldberg Segalla attorneys have extensive experience in highly specialized areas of the law, strategies and techniques required to achieve prompt understanding of the claims and defenses and to achieve a plan of prompt and economic resolution when appropriate. Goldberg Segalla works closely with the attorneys, keeping them informed every step of the way. Together we formulate a defense plan and budget that will resolve the claim with the least economic and emotional expense. Alternative dispute resolution is encouraged, when appropriate.

Goldberg Segalla has defended claims involving, among other allegations, the expiration of the statute of limitations in the underlying matter, errors in connection with real estate transactions, errors in connection with commercial transactions, errors in connection with marital dissolutions, errors in connection with the prosecution or defense of litigation, errors in connection with elder law, errors in connection with the administration of probate matters, and errors in connection with the defense of criminal cases.

Many of the cases defended by Goldberg Segalla have been of interest to the media. For example, within the last few years *The Connecticut Law Tribune* and *The Hartford Courant* have reported on the case brought by the former president of the Connecticut Resources Recovery Authority against three prominent plaintiff's law firms in the State of Connecticut. This litigation stems from the "illegal loan transaction" entered into by the CRRA and Enron Corporation. Other Goldberg Segalla cases that have been reported by the media involve the more personal aspects of lawyering and its effects on the attorneys.

Our attorneys are deeply committed to the constant refinement of their trial technique and knowledge of the ever changing national theories surrounding legal malpractice claims. Our attorneys are involved with service on the Steering Committee of the Defense Research Institute's Professional Malpractice Committee, which has approximately 1000 members nationally. They have spoken at DRI's Annual National Conferences to hundreds of trial attorneys and legal malpractice professionals on the subjects

of risk management and emerging legal theories. They are also frequent contributors of written articles and case notes in DRI's *For The Defense* and the Professional Liability Committee's quarterly newsletter.

Goldberg Segalla attorneys work to get at the heart of the matter quickly and when appropriate seek the necessary judicial and extra-judicial remedies for the best resolution possible.

LONG-TERM CARE

Goldberg Segalla's long-term care team is dedicated to protecting the interests and reputations of assisted-living, post-acute, and nursing home facilities facing negligence, abuse, and malpractice claims.

Long-term care facilities are burdened with elevated regulatory scrutiny at both the state and federal levels, which has stoked the predatory aggression of the plaintiffs' bar and triggered an increase in civil claims. Our attorneys understand the special concerns involved in these complex, sensitive, and high-value cases, and we bring a wealth of experience and knowledge to the defense of our clients in the industry.

Led by a former in-house counsel at one of the nation's largest privately owned long-term care companies, our team has successfully represented facilities that provide vital treatment and care to our aging and disabled populations, including those focusing on long-term and post-acute care, mental health care, continuing care retirement communities (CCRCs), skilled nursing, long-term care pharmacy, assisted living, independent living, and rehabilitation. Our team has handled nearly every type of claim that can arise in these settings, including those involving negligence, malpractice, wrongful death, failure to treat and failure to diagnose, staffing issues, and other related claims.

Goldberg Segalla defends claims in many areas, including, but not limited to:

- Abuse and neglect
- Dehydration
- Malnutrition
- Falls
- Injuries
- Wrongful death
- Elopement
- Deterioration or chronic illness
- Medication errors
- Improper use of restraints
- Decubitus ulcers
- Inadequate supervision and staffing
- Potential professional misconduct
- Residents' bill of rights violations

We've successfully represented facilities that provide vital treatment and care to our aging and disabled populations, including those focusing on long-term and post-acute care, skilled nursing, assisted living, independent living, and rehabilitation. Our team has handled nearly every type of claim that can arise in these settings, including those involving negligence, malpractice, wrongful death, failure to treat and

failure to diagnose, staffing issues, and related claims.

OUR HANDS-ON EXPERIENCE AND APPROACH

Our team draws on collective experience and insight earned working as in-house counsel for both long-term care facilities and their insurers, serving as board members for long-term care companies, and holding leadership roles in industry organizations, bringing a valuable perspective to our work. More importantly, we build vigorous defenses and offer comprehensive counsel based on intimate familiarity with the inner workings of health care facilities, and a hands-on approach to understanding the needs, philosophy, business model, and daily operations of each client.

We rely on our deep knowledge of the industry and developments at the state and federal levels to help our clients reduce the risk of liability and prevent costly litigation. When our clients face a claim, our attorneys get their boots on the ground to meet with critical staff and obtain an understanding of the allegations involved, the resident's treatment, the regulatory history of the building, and all other relevant issues. With this background, we provide an early assessment of the case and devise an effective and efficient defense strategy.

While many of these cases are resolved through negotiations prior to trial, our team stands ready to try these matters to verdict. Collectively, the attorneys on our team have handled nearly 400 trials, with more than 50 of those cases relating to the defense of long-term and post-acute care providers.

Some recent successes on behalf of our clients include:

- Obtaining the dismissal of a claim against a long-term care provider based on the plaintiff's failure to secure an affidavit of merit in a timely manner

- Securing the dismissal of a \$30 million demand tied to hundreds of claims of physical and psychological abuse against health care professionals employed by the New York State Office for People with Developmental Disabilities

- Successfully mediating a case involving claims of wrongful death and violations of the New Jersey Nursing Home Rights and Responsibilities Act brought by the estate of a resident who, despite safety measures in place, suffered a serious fall at the facility; through the use of an expert neurologist, our team was able to secure a significantly reduced settlement during the early stages of litigation

- Obtaining a settlement for a national long-term care facility for less than a tenth of a family's \$1 million demand after allegations of general negligence against the facility in connection with a resident's fall

- Obtaining a modest settlement and avoiding a costly trial shortly after jury selection in a nursing home case involving pressure ulcers, in which the plaintiff alleged that insufficient care led to deteriorating health issues

- Representing a home health agency in a matter involving a morbidly obese, partially paralyzed patient who fell from a lift during a transfer from the wheelchair to the bed; our team helped prove that a family member, not an agency employee, was responsible for the placement of the lift's sling, leading to the fall

LEADERS IN LONG-TERM CARE DEFENSE

Besides being active members and leaders in legal organizations like the Federation of Defense and Corporate Counsel (FDCC), the Association of Corporate Counsel (ACC), the Claims and Litigation Management Alliance (CLMA), and the Defense Research Institute (DRI), our team members also hold prominent roles in many organizations dedicated to defending and advocating for the long-term care industry, other professionals, and their insurers, including:

- Long Term Care Risk Forum
- American Health Lawyers Association (AHLA)
- Professional Liability Underwriting Society (PLUS)
- Professional Liability Defense Federation

MISCELLANEOUS PROFESSIONAL LIABILITY

Miscellaneous Professional Liability is poised to equal, if not soon exceed, the traditional professional lines in terms of insurance policies written and, naturally, claims. Goldberg Segalla understands Miscellaneous Professional Liability. Whether defending TPAs, adjusters, nurses, property managers, or any other miscellaneous professional, our experience defending the traditional professions underpins our work on the new MPL frontier. We also understand how the law fits — and, in many important ways, does not yet fit — this expansive and expanding category.

More than traditional professional liability claims, Miscellaneous Professional Liability claims typically combine standard of care (negligence) theory with contract claims and defenses. Also, unlike traditional claims, these claims often involve liquidated or otherwise easily reckoned damages. This is a key to many Miscellaneous Professional Liability claims. We have found that these characteristics allow for very early assessment and evaluation, frequently leading to early resolution.

STOCKBROKERS/FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)

Stockbrokers and financial advisors face considerable risks performing their jobs. When a dispute occurs with an investor or a regulatory authority, it is important to turn to litigators with experience. Our team focuses on representing clients in securities and FINRA arbitrations nationwide. Our securities litigation defense attorneys have worked with banks, broker-dealers, and insurance companies in FINRA arbitrations involving securities-related claims, including allegations of sales practice violations, such as unsuitable investment recommendations, misrepresentation, negligent supervision, churning, breach of fiduciary duty, and breach of contract. We have also represented brokers and advisors in regulatory investigations regarding registration matters and other allegedly unlawful conduct.

Our team has an in-depth understanding of the applicable regulations and a knowledge of how to navigate the process of arbitration and regulatory inquiries — all focused on helping you minimize the impact of regulatory enforcement and customer complaints. At Goldberg Segalla, we:

- Provide legal counsel during regulatory inquiries
- Defend clients who are under investigation for regulatory matters
- Guide clients through the arbitration process, or when possible, use alternative dispute resolution methods or obtain private settlements of claims
- Understand and assess evolving FINRA rules, regulations, and procedures
- Realize the effects of securities litigation on your business

