

Schenck Price

— SCHENCK PRICE SMITH & KING, LLP —

The background features a series of horizontal bars in shades of blue and green, arranged in a staggered, overlapping pattern. On the right side, there is a bright sunburst or light flare effect in orange and yellow, creating a sense of energy and optimism.

absolute commitment, **infinite possibilities**

2023 year in review

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Dear Clients and Friends:

I'm pleased to report that during 2023, Schenck, Price, Smith & King recorded another year of growth and expansion, a testament to our lasting client relationships and to our reach as a leading law firm in New Jersey.

In terms of personnel, we added three new attorneys to our stable who are increasing bench strength in their respective practices including litigation, construction, insurance defense, and family law. The firm also welcomed five new staff members, who with our attorneys, contribute to the exemplary client service the Firm is known for.

In addition to human assets, we continue to invest in resources that enhance our clients' experience and help us provide an excellent work product. Thirteen years after relocating our flagship New Jersey office from Morristown to Florham Park, we renovated our reception area, café, and conference rooms to reflect a clean and modern design. In addition, our Information Technology team oversaw an upgrade of our computer infrastructure including new laptops and a new electronic filing system with the goal of delivering legal solutions to our clients, better and faster.

The use of Artificial Intelligence (AI) continues to be a topic of interest among businesses and law firms. Make no mistake, machines will never replace the personal touch and judgment of a highly trained human being. However, we believe that AI has the potential to change the legal

profession in a positive manner and we continue to explore ways to utilize this technology to benefit our clients. Schenck, Price, Smith & King is formulating an AI practice in 2024. Our attorneys will be able to assist clients with issues, including litigation, that may arise from the use, or proposed use, of machine-assisted technologies.

As we reflect back on our 111-year history and look forward to the year ahead, our objectives remain unchanged: we strive to provide each and every client with the highest level of legal services to assist in achieving their goals. This is our promise to every individual, every business, and every nonprofit organization we partner with.

The theme of our book this year is "**absolute commitment, infinite possibilities.**" We hope that you enjoy this annual review of some of our highlights over the past year that embody this philosophy. We look forward to serving you in 2024.

Gary F. Werner, Esq.

Managing Partner

On Behalf of the Partners, Attorneys, and Staff

Banking and Finance

Resilience in a Challenging Landscape

Despite the industrywide decline in banking matters, our Practice Group exhibited resilience. We remained committed to catering to the needs of the small to mid-size business lending community, specializing in SBA 7(a) and 504 matters, USDA B&I loans, and conventional loans.

Our diverse portfolio of matters encompassed an array of transactions, including real estate acquisitions, fixed-asset purchases, debt refinancing, revolving credit lines, ownership transitions, asset-based transactions, and construction loans.



*Co-Chair Thomas L. Hofstetter, Michael J. Marotte, Robert F. McAnanly, Jr., James A. Dempsey.
Not pictured: Co-Chair Jeremy M. Garlock, Michael A. Gallo, Heidi K. Hoffman-Shaloo, and Jason A. Rubin.*

Noteworthy Success in Regulatory Advocacy

One significant achievement involved successfully overturning loan forgiveness rejections and challenges within the PPP lending program. This triumph underlined our skill in navigating intricate frameworks involving regulatory and financial governance (including that of the U.S. Small Business Administration) and advocating effectively on behalf of our clients.

Strategic Adaptability to Economic Shifts

In response to economic challenges characterized by inflationary pressures, escalating interest rates, and certain industries experiencing slowdowns, our Practice Group witnessed increased activity in workout restructuring. This proactive approach enabled us to adeptly guide clients through turbulent economic waters.

An Optimistic Outlook for 2024

Looking ahead to 2024, our outlook is characterized by an optimistic sentiment shared across the business landscape. We hold a positive perspective on the United States steering clear of recessionary impacts. Moreover, there's a promising indication of a potential decline in interest rates and a gradual alleviation of inflationary pressures. Forecasts suggest a downward trajectory, potentially fostering a more favorable lending environment and stimulating economic growth. Anticipations lean towards a gradual easing of inflation, potentially stabilizing consumer confidence and cost dynamics for businesses.

“For over 15 years, we have relied on the exceptional guidance Jeremy Garlock and the Schenck Price team have provided us when making critical business decisions. Their dedication and commitment have made them a vital resource for Affinity, instilling confidence in the knowledge, expertise, and practicality we've benefited from over the last decade and a half. We feel very fortunate to have such a strong partner and look forward to continuing our successful relationship for many years to come.”

~Patricia Boyer
Senior Portfolio Officer
Commercial Lending
Affinity Federal Credit
Union

"I have worked with the Schenck, Price, Smith, & King LLP team for over 15 years and have always been provided with superior service. Because of the Firm's extensive knowledge and expertise in asset-based lending, my institution can rely on them not only for sound legal advice but also a smooth and timely loan documentation and closing process."

~Diane Williams
Vice President
Senior Relationship
Manager
Asset-Based Lending
Lakeland Bank

"I have been working with Jeremy Garlock and his team at Schenck Price since 2018. I couldn't be more satisfied with my experience with Schenck Price. Jeremy has a great sense of urgency and knows how to expertly maneuver around any speed bumps when they arise. He gets deals closed in a timely manner and is one of the best attorneys in the market. I would not hesitate to recommend Jeremy and Schenck Price to anyone in need of legal assistance."

~Michael Birch
Vice President and
Commercial Loan Officer
ConnectOne Bank

"I have been working with Tom Hofstetter and SPSK for over a decade and his team is second to none when it comes to closing SBA loans for the bank. As a lender there are many balls to juggle as you seek to close a loan. Having a partner like Tom and his team is great because you don't have to constantly sit on them to get the project to the closing table so you can focus on all the other balls in the air. Moreover, when you need expert advise on how legal minutia may impact the loan and the client, he is able to quickly and precisely explain the nuances and implications of each item. This helps not only in closing loans promptly, but in making sure they are closed correctly for the future protection of the bank as well as to the satisfaction of the borrower. I feel very fortunate to have Tom and his wealth of knowledge and experience on my side every time I work with him."

~Josh Donovan, Senior Vice President, SBA, Sr. Business Development Officer, Bank Of America

"Tom Hofstetter and his team have a deep knowledge and understanding of the SBA loan programs and have provided valuable guidance to our Bank's SBA team. Tom is always available to share his expertise on complicated SBA issues and answer any questions that arise. Tom's contacts and involvement with NAGGL and other SBA organizations make himself and Schenck Price a crucial resource for our Bank's SBA program. We are appreciative of the support and guidance Tom and his team have provided over the years." ~Matthew Flannery, Senior Vice President, SBA Lending, Provident Bank

Strategic Alignment with Positive Trends

Our operational strategies for the upcoming year are in sync with this upbeat economic forecast. We aim to leverage the anticipated improvements in the economic climate to better serve our clients and assist them in achieving their financial objectives.

Preparedness for Dynamic Shifts

While we embrace this positive projection, our readiness to pivot in response to any evolving economic dynamics remains unwavering. Our priority is to offer timely guidance and tailored solutions to navigate potential shifts in the business environment.

Understanding and addressing the unique challenges encountered by businesses and lenders across diverse sectors continue to drive our efforts in serving the lending community.

Getting the Deal Done: Banking and Finance Practice Group Handle Versatile, Complex Matters

Led by Partner Jim Dempsey, the team closed on a substantive amendment to an existing \$24 million asset-based facility to accommodate the borrower's opportunity to obtain supplemental state and federal tax incentive financing under Section 45D of the Internal Revenue Code.

This matter involved review and negotiation of various subordinated debt and Intercreditor and Consent Agreements along with lender financing documents under the tax incentive program. Additionally, Dempsey and his group handled the following matters:

- Fully re-documented and closed a \$26 million revolving credit facility to a global importer, processor, and purveyor of exotic spices and herbs from the middle market area to an asset-based group, involving complicated aspects of valuations, lending on particular inventory in the United States and abroad, and ensuring proper perfection of the bank's liens.
- Closed a \$15 million multi-tranche loan facility to an importer, wholesaler, and retailer of artisan handmade rugs involving mortgages on commercial real estate in multiple states; worked with local counsel to coordinate and direct a smooth and timely closing.

Construction

Adding Significant Value to Clients Through Skillful Litigation and Negotiation

Partners Gary Werner and Joseph Haftek, Co-Chairs of the Construction Law Practice Group, succeeded in securing the dismissal of all claims against our client, an international construction firm, in a multi-party construction litigation venued in New Jersey.



Seated: Joseph L. Roselle, Co-Chair Gary F. Werner, Thomas J. Cotton, Franklin Barbosa, Jr. Standing: Ryder T. Ulon, Cynthia L. Flanagan, Maria Buitrago-Rincon, Co-Chair Joseph R. Haftek, Jr., Jeffrey T. LaRosa. Not pictured: Joseph Maddaloni, Jr., Gilbert S. Leeds, Erica S. Berman, Dana K. Ferrara, and Thomas N. Gamarello.

"I have been working with Gary Werner and his Construction team for many years. Our long-term relationship and our numerous successes together have been the direct result of Schenck Price's superior service, incredible breadth of industry knowledge, and a responsiveness and level of care that outshines what many other professional services firms provide."

~Michael G. Serafino
Director of Operations
Construction
Senior Vice President
Americas,
Lendlease

The litigation arose out of numerous alleged construction defects, as well as design defects and an alleged improper termination on a multi-million-dollar project involving a major New Jersey university. We were able to extricate our client from this complicated and expensive litigation in a favorable settlement where our client paid nothing.

Werner and Haftek, as well as partners Ryder Ulon, John Campbell, and Jeffrey LaRosa are representing the same international construction entity in several multi-party, multi-million-dollar construction litigations involving construction defect claims, workmanship claims, and design claims.

Partner Thomas Cotton is navigating a New Jersey-based, heavy-construction site contractor through all manner of legal issues (e.g., litigations, arbitrations, bonding, and liens) throughout the country. The disputes are as varied as the construction industry itself, with matters involving allegations of design defect, labor delay, materials delay, workmanship, liens, and payment.

Werner has successfully renegotiated a multi-year, ten-figure contract between a vendor and our client, a large New Jersey municipality. The negotiation successfully resolved a myriad of potential issues for the municipality/city, including costs of materials and the time frame for the work, and balanced all of these issues with the concerns of the citizens in the area of the project.

As a group in 2023, Schenck Price's construction law attorneys:

- Settled or obtained over seven figures worth of cumulative judgments for clients;
- Defended clients in claims approaching one billion dollars;
- Negotiated and drafted more than eight figures worth of complex construction agreements;
- Assisted clients in filing construction and municipal mechanics liens to secure clients' non-payment claims; and,
- Regularly provided sound advice regarding construction project development and progress, corporate structure and strategy, and post-project claims.

Corporate and Business Law

Helping Clients Achieve Their Objectives Through Sophisticated and Knowledgeable Counsel

In January, Michael Marotte, Co-Chair of the Corporate and Business Law Practice Group and Jennifer Golub, Counsel, successfully represented a client in connection with a private equity investment and recapitalization in excess of \$60 million.



Jennifer A. Golub and Co-Chair Michael J. Marotte

The recapitalization will allow the company to continue its growth as a leading virtual and live training engagement company, providing event production, training, experiential marketing, and strategic communications services to a variety of industries.

In the summer of 2023, Marotte and Golub successfully represented a client in a financing transaction allowing for a new \$50 million credit facility with an option to increase the facility by an additional \$100 million. As part of the transaction, the company and its affiliates were restructured in multiple jurisdictions. The credit facility will allow for the continued growth of the company and its expansion into new markets.

Welcome!

“We were delighted to welcome these talented individuals to our firm this year,” said Managing Partner Gary F. Werner. “We look forward to their contributions as part of the Schenck Price team.”

Three new attorneys joined the ranks this past year, providing additional firepower to the Commercial Litigation, Family Law & Divorce, and Insurance Defense Practice Groups, among others.

Marla Buitrago Rincon, Associate

- Commercial Litigation
- Construction
- Labor and Employment
- Insurance Defense

Matthew C. Morales, Associate

- Commercial Litigation
- Insurance Defense

Mark Zientek, Jr., Associate

- Family Law & Divorce



Matthew Morales, Marla Buitrago Rincon, and Mark Zientek, Jr.

Corporate and Business Law

Schenck Price as Outside General Counsel: A Trusted Advisor Navigating Companies Through Complex Transactions

The team successfully closed a relatively rare \$40 million public bond offering made by a privately held company for which we serve as outside general counsel.

Forty Million Public Bond Offering for a Privately Held Company

A team including Partner Edward Ahart, Counsel Jennifer Golub, Counsel Robert McAnanly, and Paralegals LuAnn DeSisto and Stacey Gallagher, successfully closed a relatively rare \$40 million public bond offering made by a privately held company for which we serve as outside general counsel. The project involved substantial analysis and work with the client to finalize the offering with the investment banking company and the client's primary lender, the preparation of significant and sophisticated bond documents, and the coordination of the closing, all with multiple parties and national law firms representing them. Following this closing we also handled a major \$50 million loan for the client which required significant coordination with the bondholders in addition to the review, revision, and execution of the loan closing documents.



Co-Chair Edward W. Ahart



*Stacey Gallagher, Jordan A. Wassel, Gary Mazart, Lauren Wilson, LuAnn DeSisto.
Seated: Robert F. McAnanly, Jr. and Jennifer A. Golub*

Corporate Refinancing and Reorganization, Succession Planning, and Estate Planning for Long-Time Manufacturing Client

Partner Edward Ahart, Partner Gary Mazart, Counsel Jordan Wassel, and Paralegals LuAnn DeSisto and Lauren Wilson successfully completed a complex refinance of mezzanine financing, which also required a reorganization of the corporate board of directors for a long-time manufacturing client for which we serve as outside general counsel. In addition to reviewing and negotiating the documents with the mezzanine lender and updating multiple sophisticated documents with the client's primary lender, we counseled on revised bylaws and a shareholder agreement resulting from the reorganization as well as on the implications to the company's operations. Our team then continued its work to advise the client on various succession planning issues as well as sophisticated estate planning for the principals.

Corporate and Business Law/Litigation

Schenck Price Secures Big Win in an International Intellectual Property Dispute

The Firm represented a start-up-level medical technology company that became entangled in a complex international dispute concerning intellectual property rights.

The client, an innovative technology company, found itself embroiled in a contentious arbitration initiated by a former executive of the company and a foreign distributor.

The conflict arose from an escrow agreement executed by the client and the distributor, which mandated the deposit of copies of the client's intellectual property with a trusted third-party escrow company. This agreement outlined specific conditions under which the intellectual property could potentially be released to the distributor, primarily if the company went out of business. Unfortunately, the distributor attempted to nefariously trigger the release of the intellectual property, which would have catastrophically injured the client. The distributor took a clandestine route, commencing an arbitration proceeding in Texas with no notice to our client aiming to secure the release of the intellectual property without the client's knowledge.

The Schenck Price team of litigators, corporate attorneys, and intellectual property attorneys, led by Partner John Ursin and assisted primarily by Associate Franklin Barbosa, created a plan to defend the company and its valuable IP. This plan involved a precision review of the underlying contracts, default notices, participation in the arbitration, and additional litigation to address the distributor's wrongful conduct.



John E. Ursin and Franklin Barbosa, Jr.

Schenck Price swiftly intervened in the proceedings, crucially just before an imminent arbitration decision that could have resulted in the release of the intellectual property and the hobbling of the client's business. Throughout the arbitration process, Schenck Price attorneys robustly advocated for its client's interests, actively seeking the immediate dismissal of the distributor's claim for the release of the escrowed intellectual property.

Ultimately, the Firm achieved a complete victory on behalf of its client in a remarkably short time period. The arbitrator's ruling was unequivocal—the third-party escrow company was directed to destroy all copies of the client's intellectual property in its possession and, significantly, the distributor's claim was dismissed with prejudice. The company is now pursuing the development and distribution of a valuable medical technology.

The Firm achieved a complete victory on behalf of its client in a remarkably short time period and the arbitrator's ruling was unequivocal.



“John Ursin and his staff were the backbone and primary reason we were able to close on our complicated family estate administration in St. Barth’s this past July. John had to coordinate and oversee a number of moving parts in multiple countries in order for this transaction to be completed. He went above and beyond on numerous occasions to keep the deal moving forward. We thank him and his team many times over for all they did for our family.”

Challenging Estate Administration and Real Estate Transaction in the Caribbean

John Ursin had one of the most interesting engagements in his 30-year legal career.

Our clients received notice that they were beneficiaries of an estate on the Caribbean island of St. Barth’s. This was such a surprise that it appeared that it might be fraudulent. This inheritance was from a somewhat distant relative, who they had not seen in many years. Ursin led the due diligence to determine if the claim was legitimate.

Once the inheritance was deemed to be authentic, over the next two plus years, Ursin assembled and directed an international team to navigate the estate process on St. Barth’s. This required a comprehensive analysis of estate issues in the U.S. and St. Barth’s, as well as France, which governs St. Barth’s.

The task also included analyzing the value and development potential of the property on St. Barth’s by engaging with local developers. Eventually, there was a series of negotiations with potential buyers that had many levels of international complexity as the transaction required approval of both local heirs and government officials.

Ursin commented that this was a highlight of his career for two reasons. First, it was very complex. He directed a team that included U.S. tax and estate attorneys, St. Barth’s real estate attorneys, French tax attorneys, and an appraiser. It also involved the administration by St. Barth’s government officials, who regulate and administer estates. Second, the story had a very happy ending for some very nice clients. The end result was that the clients’ share of the estate, which was originally thought to be only a few million dollars, eventually grew and was paid at just under \$40 million USD. Needless to say, the clients were very pleased.

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Elder & Special Needs

Transferring Guardianships Across State Lines

Guardianships are creatures of state law resulting in about 51 guardianship laws in the U.S. Moving an incapacitated person across state lines can be very stressful for that person as well as for the guardian and legal hurdles can arise in the transfer. However, about 45 states, Puerto Rico, and Washington, D.C. have enacted the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) which was designed to streamline the transfer of guardianships across state lines. The attorneys in the Firm's Elder and Special Needs Law Practice Group are very experienced in transferring guardianships to and from New Jersey in states that have enacted UAGPPJA and states that have not done so. This past year, we helped clients navigate the transfer of guardianships across state lines with the goal of eliminating legal impediments in caring for their incapacitated loved ones in a new state.



Our team's unique understanding about the valuation of assets included in the estate, and about deductions generally allowable for expenses, can produce significant tax savings.

Standing: Jordan A. Wassel, Gary Mazart, Julie L. Cross, and Shirley B. Whitenack. Seated: Meredith L. Grocott and Basil F. O'Connor. Not pictured: Regina M. Spielberg, Farah N. Ansari, Wynne A. Whitman.

Estate, Gift & Charitable Planning

Helping Clients Reduce Their State Inheritance Tax Liability

Integral to assisting clients with estate administration after the death of a family member is the ability of Schenck Price's Estate, Gift, & Charitable Planning Practice Group to navigate the complexities of the New Jersey Inheritance Tax Return.

In addition to the federal estate tax, New Jersey imposes a transfer tax at death based on the relationship of the beneficiary to the decedent, with tax rates reaching as high as 16%. Our team's unique understanding about the valuation of assets included in the estate, and about deductions generally allowable for expenses related to estate administration and for expenses related to specific assets under administration, is critical when preparing the tax return in order to minimize the tax payable. Particularly, understanding whether expenses associated with the sale of specific real estate, as well as professional fees and executor's commissions related to

general estate administration, qualify as deductible expenses can produce significant tax savings. At the same time, understanding the metrics involved in valuing real estate or privately held businesses, together with the permitted date on which these assets are valued for transfer tax purposes, allows us to work with appraisers and accountants to determine an accurate and supportable value that will generate the best tax result for the estate.

Specifically, during 2023, our team advocated on behalf of numerous clients with the Inheritance and Estate Tax Branch of the New Jersey Division of Taxation (the Division) on these nuances. For example, on "desk audit" of a recent inheritance tax return, the Division reversed its original position and accepted our detailed legal analysis that resulted in a substantial tax reduction. Specifically, the Division agreed that they are required to use the lower date of death appraised value for real estate included in the estate despite the fact that the real estate was sold nine months after death at a much higher value due to a post-death, COVID-related spike in value.

Partner Edward W. Ahart: Celebrating *50 Years* of Distinguished Service



Cathy Ahart (Ed's wife); Stewart G. Pollock, Retired Associate Justice, New Jersey Supreme Court and Former Schenck Price Partner; and Ed Ahart.

Partner Ed Ahart, Co-Chair of the Corporate and Business and Nonprofit Organization Practice Groups, celebrated 50 years with Schenck, Price, Smith & King in 2023! Ed's work over the last five decades—including a 20-year tenure as Managing Partner—has greatly contributed to the growth and stature of the Schenck Price law firm that we know today.

Ed began his career as an insurance defense litigator and gradually his focus shifted to various corporate matters. After a mere five years with Schenck Price, Ed became a partner and two years after that, he was appointed to the Management Committee. As a result of his dual role, Ed had a front row seat to the challenges—and opportunities—of a growing law firm.

"As with any organization that has been around as long as we have—111 years—the firm has undergone much change. We have had lots of good years and others that were not as good."

In 1990, Ed became Schenck Price's newest Managing Partner. During Ed's tenure, Schenck Price experienced significant growth, expanding from a 25-attorney firm to one with over 70 attorneys. Overall, Ed's 20 years as Managing Partner were marked by expansion and internal innovation.

"Ed was a very special Managing Partner who moved the firm forward in so many areas," says Gary F. Werner, who currently leads Schenck Price.

Notably, Ed presided over two significant construction projects designed to enhance Schenck Price's offices off the Morristown Green and one at the company's present headquarters at 220 Park Place in Florham Park.

Ed's career, in his own words, *"has been a long and winding road, but the journey has been very rewarding. My career has included clients with whom I have worked for over 40 years. In the for-profit world, I primarily counsel privately held companies, and handle M&A, financing, daily operational and contract issues, as well as succession planning and counseling. This work has also led to me serve as a trustee on about a dozen trusts."*

Ed is also on the board of several organizations, including Lafayette College, his alma mater, which also awarded him with an Honorary Doctor of Laws degree.

"Throughout my career, the narrative that I have tried to promote is that our firm is deeply committed to our clients and has the technical skills and strategic insight to get the job done."

Ed is especially proud of his work in the community and the not-for-profit foundation world.

"I hope I have helped people understand that Schenck Price is a firm of great integrity with a deep commitment to the community. The leaders of our Firm who came before me—people I consider mentors like Ed Vogt, Cliff Starrett, Stewart Pollock, Harold Price and others—were not only outstanding lawyers but fine, caring people of character. I have always strived to be like them, and I hope that our firm will have that reputation forever."

Estate and Trust Litigation

Valuable Resources in Resolving Estate Administration Conflicts

Engaging an attorney to assist with the administration of the estate can actually serve to streamline the process and save the estate money in the long run.

Unlike some other states, beginning the probate process in New Jersey is very “user friendly” and rarely requires having to go to court.

There are some exceptions, such as seeking to probate a photocopy of a Last Will and Testament or a writing intending to be a Will, but ordinarily, to qualify as the administrator or executor of an estate simply requires a trip to the county Surrogate’s Office. Depending on the county, a trip may not even be necessary because the documents can be mailed. However, qualifying as the estate representative is merely the first step. Engaging an attorney to assist with the administration of the estate can actually serve to streamline the process and save the estate money in the long run. By New Jersey statute, an estate fiduciary is permitted to hire an attorney and have that attorney paid out of the estate.

This year, Schenck Price’s Estate and Trust Litigation Practice Group represented estate fiduciaries who initially administered the estates without an attorney only to find themselves involved in litigation that could potentially have been avoided if the fiduciary had professional guidance from the outset. Even estate fiduciaries with the best of intentions are not always aware of all of the obligations to fulfill their duties. This could range from required tax filings (estate, inheritance, and income) to the need to obtain a release and refunding bond prior to making a distribution to a beneficiary.

Estate executors/administrators have a fiduciary duty to the estate beneficiaries and delays in administration or a failure to provide information can make beneficiaries suspicious and more apt to hire their own attorneys who may seek redress with the courts. This may be the

case even more so if the decedent’s family is fractured or the Will does not treat family members equally.

The attorneys of the Schenck Price Estate and Trust Litigation Practice Group are knowledgeable in the requirements of estate administration and the fiduciary duties of executors/administrators, which enables them to effectively and zealously represent their clients when faced with litigation.

*Standing: Basil F. O’Connor and Thomas N. Gamarello.
Seated: Co-Chairs Shirley B. Whitenack and Meredith L. Grocott.
Not pictured: Ryder T. Ulon*

Litigation

In Complex Case, Schenck Price Recovers Funds for Long-Term Care Facility

Partners John E. Ursin and Meredith L. Grocott secured an important result for New Jersey Eastern Star Rehabilitation and Nursing, a long-term care facility in Bridgewater, New Jersey. This decision was not only significant for the client, but also serves as an important example to other facilities in the value of pursuing certain unpaid resident charges.



John E. Ursin and Meredith L. Grocott

The case involved a husband and wife, who were residents of the facility. The residents' son, under a Power of Attorney, completed and signed the admissions application and agreement on behalf of his parents. Thereafter, the son, improperly transferred more than \$300,000 of his parents' money, including the entire sale proceeds of their prior home, to himself. The transfer of funds delayed the residents from qualifying for Medicaid benefits, which would have otherwise paid for the services rendered by Eastern Star.

“Eastern Star deserves the credit here,” says Ursin. “Meredith and I are so pleased that Schenck Price was able to assist in correcting this wrong and recovering these funds.” This was a significant debt that should not have been incurred. Although this was not an easy case, the outcome exemplifies the worth in pursuing these matters.

The Medicaid determination by the Administrative Law Judge took several years. While the decision was pending, the son used the funds for his personal expenses, including vacations, credit cards, and purchasing a house in the Midwest. The son's improper transfer of funds created a substantial unpaid debt for Eastern Star. Eastern Star's Administration and Board showed great resolve and commitment in pursuing legal action for the unpaid balance.

The case was complicated and took many years. Grocott won a summary judgment motion in New Jersey and obtained a judgment for the incorrectly transferred funds. However, because the son lived out of state, only one parent sought to qualify for Medicaid. Ursin coordinated with a Midwest law firm to file the judgment and pursue the son's property. The case was eventually settled, and despite the son's efforts to cover his tracks, Eastern Star was able to recover \$200,000.

Many of our attorneys work closely together to bring our clients the full range of services that Schenck Price offers.



Jordan A. Wassel, Meredith L. Grocott, and Timothy I. Duffy

Estate and Trust Litigation

A Full Range of Legal Services for Every Client

*M*any of our attorneys work closely together to bring our clients the full range of services that Schenck Price offers.

Pictured above is Timothy Duffy, Partner, Commercial Litigation and Products Liability Defense, along with Jordan Wassel, Counsel, and Meredith Grocott, Partner and Co-Chair of our Estate and Trust Litigation Practice Group.

Tim routinely connects his clients with the expertise of our Estate and Trust Litigation attorneys. In this area, the Firm handles a wide range of issues, including will contests; trust disputes; will and trust reformations, including special needs trusts; accounting actions or disputes; contested estate administration; disputes among co-fiduciaries; breach of fiduciary duty claims; insolvent estates; elective share claims; disinherited spouse and omitted spouse claims; protection of beneficiary rights; and court approval of special needs trusts.

Thirty Practice Areas Covering Virtually Every Legal Need

*S*chenck Price attorneys practice in a diverse array of areas, designed to address and resolve most legal needs. Our clients, including individuals, small businesses, large corporations, and nonprofit organizations, benefit from our versatility and skill in the following disciplines:

- Appellate Practice
- Banking and Finance
- Commercial Leasing
- Commercial Litigation
- Commercial Real Estate
- Commercial Restructuring and Workouts
- Construction Law
- Corporate and Business Law
- Creditors' Rights
- Elder and Special Needs Law
- Environmental Law
- Estate, Gift & Charitable Planning
- Estate and Trust Litigation
- Family Law & Divorce
- Government Law
- Health Care Law
- Insurance Coverage
- Insurance Defense
- Intellectual Property
- Labor and Employment Law
- Land Use and Redevelopment
- Nonprofit Organizations
- Pharmaceutical Industry and Pharmacy
- Plaintiff's Personal Injury
- Products Liability Defense
- Professional Liability
- School Law
- Tax Planning
- Technology and Social Media
- Telecommunications Law

Keeping a *Spotlight* on Diversity, Equity, and Inclusion



Managing Partner Gary F. Werner and Jackie Lue Raia, President of Alexena Consulting

This past year, Schenck Price hosted a CLE seminar, “Diversity, Equity, Inclusion and Belonging in the Workplace” for attorneys and clients. Jackie Lue Raia, President of Alexena Consulting, led the session which focused on providing skills, tools, and knowledge that allow for effective communication and greater understanding amongst attorneys, staff, clients, and other external stakeholders. The ultimate goal? The creation of a diverse, empathetic, and cohesive workplace culture.

“There were many excellent takeaways and insights discussed during the session that will help enhance the way we work together on behalf of our clients,” said Schenck Price Partner Farah N. Ansari, Chair of the Firm’s Diversity & Inclusion Committee.

The Committee is devoted to promoting equal opportunity for all attorneys and professional staff and fostering cultural competence. The group also supports the Firm’s continued commitment to building a diverse team and inclusive workplace.

Toward that goal, Schenck Price held its annual Diversity & Inclusion Law Student Internship Program this past February. Participating this year were Interns Erik Lascano and Jessica Santacroce. Erik is a second-year law student at Rutgers Law School and Jessica is a second-year law student at Seton Hall Law School.

“Schenck Price was excited to have Erik and Jessica with us for five weeks and to provide them both with ‘real world’ experience,” said Ansari. “Both students have superior academic credentials and brought new perspectives to the Firm based on their personal backgrounds and experiences.”

The internship program, coordinated by the Firm’s Diversity & Inclusion Committee, is designed to offer our interns legal experience by inviting them to listen to depositions, attend closings, participate in research projects, and more.

“We were also delighted in September to welcome Matthew Morales, an alumnus of the program, who joined the firm as an Associate,” Ansari said. Matthew is Schenck Price’s first diversity internship hire.

The year was also marked by observations of various diverse holidays and month-long celebrations including Black History Month, Hispanic Heritage Month, and Diwali, among others.

Ultimately, our attorneys' efforts were successful, and the client obtained the approval needed to get to the next layer of review and obtain permit renewal.



Co-Chair Heidi S. Minuskin and Jonathan F. Donath

Environmental Law

Schenck Price Attorneys Navigate Client Through Complex Environmental Justice Process

Partner and Co-Chair Heidi Minuskin, Partner Jonathan Donath, and the Environmental Law Practice Group guided one of the Firm's manufacturing clients through New Jersey's new and complicated Environmental Justice (EJ) process.

We successfully obtained EJ approval from the New Jersey Department of Environmental Protection (NJDEP) in connection with a renewal of the client's Title V Air Permit in 2023. Certain manufacturing facilities must obtain permit approval related to air emissions secondary to their operations. That process, already quite complicated from an environmental perspective, became much more onerous when New Jersey's Environmental Justice Law (EJ Law) was signed into law in 2020 and the subsequent implementing regulations adopted in 2023.

The EJ Law requires NJDEP to evaluate the environmental and public health impacts of operations of certain facilities located in overburdened communities when reviewing renewed, new, or modified permit applications. This involves public hearings and information sessions, providing requested details to the NJDEP, as well as many other substantive and administrative hurdles which must be overcome in order for such facilities to continue operating. Minuskin, Donath, and their team assisted the client in preparing presentations relating to its permit renewal application, giving public notice and holding public hearings, interfacing with NJDEP representatives, and otherwise navigating this new and evolving process. Ultimately, our attorneys' efforts were successful, and the client obtained the approval needed to get to the next layer of review and obtain permit renewal.

Schenck Price and Attorneys Garner *Awards in 2023*

Best Lawyers

Throughout 2023, Schenck Price and its attorneys were honored with awards and recognitions by various publications and organizations for their knowledge and expertise in the law. Each of these honors are reflective of our attorneys' distinguished careers and notable activities outside of their work at the Firm.

ATTORNEY RECOGNITIONS

Partner **John E. Ursin** was named to the **2023 NJBIZ Leaders in Law** list. This recognition is appointed to attorneys whose dedication to their practice in law and community is outstanding. As a corporate attorney whose expertise covers a wide range of specialties and includes first-chair litigation experience, Ursin has built a powerful, results-oriented, client-focused practice. In addition to his legal career, Ursin serves as Co-Chairman of the Board for Birth Haven, a nonprofit organization providing resources and shelter for pregnant women in need of assistance, President of the Pope John XXIII High School's Endowment Board, and Finance Chair of the Good Shepherd Roman Catholic Church in Andover, New Jersey.

Partner **Heidi S. Minuskin** was named a **2023 NJBIZ ICON** honoree. This award recognizes New Jersey business leaders over the age of 60 for their notable success and strong leadership within and outside their respective fields. As Co-Chair of the Environmental Law Practice Group, Minuskin counsels clients on the impact of environmental law on real estate and business transactions, helping them to assess and address potential liabilities under federal and state environmental laws and regulatory requirements. Minuskin's practice has been widely recognized within the legal industry, and she is a frequent speaker and author on environmental law.

Counsels **Jennifer A. Golub** and **Jordan M. Wassel** were honored with **2023 New Jersey Legal Awards** by the *New Jersey Law Journal*. Golub was recognized

as a **Mentor** honoree, which is awarded to those who dedicate time and effort to be a true mentor to those around them. Wassel was recognized as a **New Leaders of the Bar** honoree—a younger attorney who has both notable achievements and outstanding potential in the career of law.

John (Jake) D. McCarthy was named a **2023 NJBIZ Veterans in Business** honoree. This recognition honors military veterans who are making a significant impact on New Jersey business as well as continuing to give back to their community. In 1996, McCarthy enlisted in the United States Navy Reserve and served for six years as an Intelligence Specialist First Class. Presently a Partner at Schenck Price, Jake often represents law enforcement on various matters, and his practice focuses on commercial litigation, labor and employment law, and insurance defense matters. In addition to his practice, he provides pro bono legal advice for residents at Bloom for Women, a nonprofit dedicated to empowering survivors of sexual trafficking and exploitation in the Lehigh Valley.

John P. Campbell, **Timothy I. Duffy**, **John (Jake) D. McCarthy**, and **Michael K. Mullen** were named to the **2023 Irish Legal 100**. The Irish Legal 100, founded in 2008, is an annual compilation of distinguished legal professionals across the country who share pride in their Irish heritage. Each year, the Irish Legal 100 inductees are invited to a celebration in Washington, D.C. at the residence of the Ambassador of Ireland to the United States.

Chambers AND PARTNERS

New Jersey Law Journal

Super Lawyers®

The Firm's *skill and expertise* recognized by several entities

Thirteen attorneys were named to the **2024 Best Lawyers in America®** for their talent in the legal industry. Additionally, six attorneys were named to the **2024 Best Lawyers: Ones to Watch®** list, which recognizes attorneys who are earlier in their careers for outstanding professional excellence in private practice. Best Lawyers is a long-time and respected peer-review research and accolades company in the legal profession. The company conducts exhaustive peer-review surveys in which thousands of lawyers confidentially evaluate the work of their fellow legal professionals within their local market and specialty.

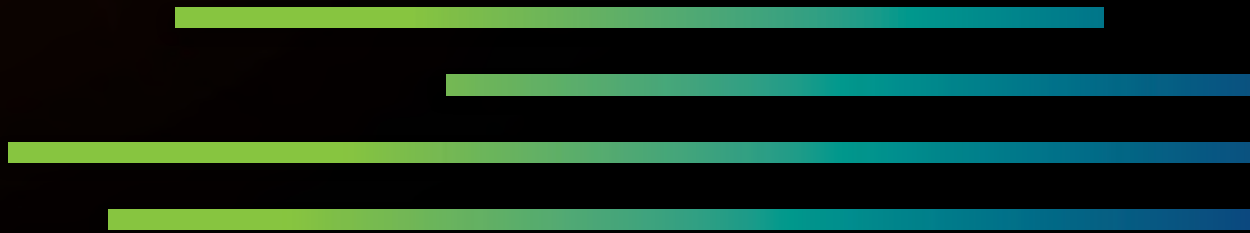
Twenty-three attorneys were recognized in the **2023 edition of New Jersey Super Lawyers** and six attorneys were recognized as **2023 New Jersey Rising Stars**. Published by Thomson Reuters, Super Lawyers and Rising Stars recognize outstanding attorneys who have attained a high degree of peer recognition and professional achievement. With regard to special recognitions, **Shirley Berger Whitenack** was named within the **Top 50 Women New Jersey Super Lawyers** and **Eric A. Inglis** and **Gary F. Werner** were named within the **Top 100 New Jersey Super Lawyers**. Super Lawyers evaluates candidates on 12 indicators of peer recognition and professional achievement. No more than 5% of New Jersey attorneys are recognized by Super Lawyers and only 2.5% of New Jersey attorneys receive a Rising Star distinction.

Schenck Price's Environmental Law Practice Group, as well as six attorneys, were ranked and recognized in the **2023 edition of Chambers USA**, the world's leading legal ranking and insights intelligence company. The **Environmental Law Practice Group** received Band 3 recognition, and four partners within the group were ranked: **Heidi S. Minuskin** (Band 3), **Sean Monaghan** (Band 3), **Timothy I. Duffy** (Band 3), and **Richard J. Conway, Jr.** (Senior Statesman). In addition, **James A. Dempsey** is one of ten New Jersey attorneys to have received Band 1 recognition in the area of Banking and Finance and **Gary F. Werner** received Band 3 recognition in Construction Law.

FIRM RECOGNITION

Eight of the Firm's practice areas were recognized in the **2024 edition of Best Law Firms** by **U.S. News & World Report** and **Best Lawyers**. The Commercial Litigation, Environmental Law, Insurance and Trusts and Estates practices were ranked Metropolitan Tier 1 while Construction Law and Litigation—Environmental were named to Metropolitan Tier 2 and Employment Law and Real Estate were named to Metropolitan Tier 3.

**No aspect of this advertisement has been approved by the Supreme Court of New Jersey.*



Family Law & Divorce

Family Law & Divorce Practice Group Hits Ground Running in 2023



“Tanya and her Associates are outstanding! What I admire most about Tanya is her knowledge of the law with her keen negotiation skills to foster mediation. Her strategies efficiently resolve conflict leading to the resolution of cases. She and her team have an outstanding work ethic, know what data are needed, and get the job done. It is a pleasure to work with such wonderful professionals.”

~ Tara A.

Chair Tanya N. Helfand and her team, clockwise from left, Maria A. Drylie, Jacqueline F. Pivawer, Mark Zientek, Jr., Marlon Halpern, and Brittany H. Rhoton.

Practice Chair Tanya Helfand and her team joined Schenck Price in 2022 and continue to handle a large number of family law matters, many of which are complex and thorny.

“I found Ms. Helfand’s knowledge and tenacity most reassuring during the ordeal of my divorce. She was steadfast in her guidance and was very effective in her negotiations on my behalf. I would recommend her without a second thought.”

~ Jonathan M.

The group’s skillful advocacy has resulted in many fair resolutions and satisfied clients. Below are a few brief highlights:

- We represented a father in Sussex County with two small children, one in preschool, the other an infant. An Individualized Education Program (IEP) was necessary for the preschooler. The mother refused to cooperate with the IEP and also wanted to move to Bergen County because of her other family members’ desire to live there. She threatened to immediately move and take the children, causing a 50-mile distance between them and the father and uprooting the child in preschool. We filed an emergent application preventing the move and establishing an interim custody order.
- A wife in a domestic violence matter sought our representation. We crafted an extensive resolution including temporary support, establishing exclusive use of homes and temporary custody until

further orders could be entered. We saved the client thousands of dollars by negotiating this as part of the settlement rather than waiting for further litigation in the divorce matter.

- In a recent matter, we represented the husband in a marriage of 30+ years. He moved out of state for a job and his wife was to follow. They decided to get divorced. We mediated an agreement but the wife delayed the process and the finalizing of the agreement. The husband always paid fair support but he lost his job before the final settlement agreement was signed. He wanted to settle ASAP but he had no work. We advised that he wait until finding a replacement job to ensure his ability to pay alimony. His new job—started about nine months after the layoff—paid about half the salary of the old job. We worked to have the support appropriately modified. This was a fair and timely result as it is much harder to change later and very costly.

Health Care Law

Representing Health Care Clients in Corporate, Regulatory, and Compliance Matters

The Firm's Health Care Practice Group continues to represent large New Jersey hospitals and health care systems in connection with their important and strategic business initiatives intended to provide enhanced community benefits through diverse and high-quality health care services.

This past year, our attorneys closed several transactions for the acquisition of new health care facilities and the formation of new joint ventures. **These transactions brought New Jersey communities the services of a multidisciplinary sports medicine practice and urgent care centers to more than 20 locations.**

The Health Care Practice Group regularly counsels and educates clients in the health care space on complex regulatory and compliance matters, including deal structure and program design.



David B. Bailen, Deborah A. Cmielewski, and Chair Daniel O. Carroll

Our attorneys also provided counsel to hospital clients in connection with their continued investment in research of new treatments and technologies as well as their ever-expanding efforts to integrate and better coordinate patient care among health care providers.

The Health Care Practice Group regularly counsels and educates clients in the health care space on complex regulatory and compliance matters, including deal structure and program design. Our attorneys assist in evaluating and managing privacy incidents; breach reporting; and follow-up, including workplace training on HIPAA and related topics.

Litigation

Impressive Results for Deserving Clients in Commercial Disputes



John P. Campbell, Jeffrey T. LaRosa, and Jason J. Waldstein

Location, Location, Location. New Jersey's litigation landscape is unique and Schenck Price's litigators know how to navigate it well on behalf of their clients. Partners John Campbell and Jeff LaRosa served as local counsel on several litigations where the matters in controversy exceeded \$100 million.

The clients and their national counsel desired New Jersey attorneys with strong reputations who knew the rules, written and unwritten, as well as the trends, venues, and Judges to make critical decisions throughout the course of the litigations. Campbell and LaRosa counseled their clients through the different procedures and techniques in the state courts, which may vary county to county. They also provided local knowledge regarding New Jersey's Complex Business Litigation Program before suits were filed to ensure the nuanced cases were handled by Judges with expertise.

Litigation and Transactional Attorneys Tag Team to Improve Leaseholds
Partners John Campbell and Jason

Waldstein represented a commercial tenant and sublandlord in numerous transactions and potential litigations as the company moved and altered its business to adapt to today's economy. Campbell provided litigation assistance with the client's landlords and subtenants while Waldstein negotiated and drafted amended or new lease agreements to better protect the client if future conflicts arise. Ultimately, disruptive and costly litigation was avoided, and proactive measures were taken to minimize the risk of future lease disputes.

Not so Fast—Expansive Pre-Suit Discovery Denied

Campbell represented a family-owned business forced to defend itself before litigation was filed against it from pre-suit discovery. Specifically, New Jersey Court Rules permit a party to file a Notice of Petition for Discovery Pursuant to R. 4:11-1 which allows pre-suit discovery in limited circumstances. The application is not often used because it is limited in scope. Nevertheless, practitioners may seek to unfairly expand the rule to gain documents and information to later be used against litigants. In this instance, Campbell was able to negotiate the production of limited discovery and then convince the Court through briefs and oral argument that additional discovery was beyond the scope of the rule. The case continues and litigation may soon be filed, but John Campbell's client has been protected from providing its adversaries with an unfair pre-suit advantage.

“Surf-By” Lawsuit Defended in New York

Campbell defended an Arizona-based e-commerce retail client in a “surf-by” lawsuit filed in New York federal court where a visually impaired plaintiff alleged the client's website violated the Americans

with Disabilities Act (ADA) due to plaintiff's inability to access the website using screen-reading software that makes the written text or images audible. These actions are cousins to "drive-by" lawsuits, where plaintiffs drive by businesses to identify minor and technical ADA violations, without actually visiting the business before filing a lawsuit. Where a "drive-by" plaintiff may allege a six-inch step-up into the store prohibits access to the physically disabled, a "surf-by" plaintiff may allege that website images without alt-text coding prohibits access to the visually impaired. Thousands of "surf-by" lawsuits have been filed in New York, Florida, and California against businesses in numerous industries including education, retail, restaurants, art, insurance, hospitality, and recreation. Campbell secured an early settlement without the client incurring significant costs and negotiated an agreement which acknowledged the client's steps taken prior to the lawsuit to provide an accessible website.

SaaS Pre-Suit Settlement Negotiated Between International Technology Companies

Campbell, who is Chair of the Technology and Social Media Practice Group, negotiated a settlement dramatically reducing his client's exposure and avoiding costly litigation. Campbell's client, an international fintech company providing a full range of digital asset services, contracted with another global cloud-based software company to provide customer relationship management software. A dispute arose between the parties as Campbell's client claimed ineffective services, and the plaintiff demanded immediate payment of hundreds of thousands of dollars to avoid litigation. Campbell successfully negotiated a settlement whereby his client paid less than 10% of the original demand and terminated the contractual relationship between the parties. Campbell's persuasive advocacy allowed his client to strategically move forward with their business and avoid costly litigation in California.



Catherine P. O'Hern and Michael K. Mullen

Litigation

Mullen and O'Hern Prevail During Trial; Claims in Excess of \$1.3 Million Dismissed

At a recent trial, Schenck Price Partner Michael Mullen and Associate Catherine O'Hern successfully obtained a dismissal of all claims against their client and its Trustees in excess of \$1.3 million.

Schenck Price's client, a charitable religious organization (plaintiff), shared ownership of a commercial building with its co-tenant, a separate charitable organization (defendant). After the defendant had restricted the plaintiff's fair use of the property, Mullen and O'Hern filed suit on behalf of the client in the Chancery Division seeking injunctive relief and to commence a partition action. In response, the defendant filed a counterclaim for building renovation costs completed years before plaintiff's existence or ownership of the property, and a third-party complaint against the plaintiff's Trustees, individually, alleging breaches of fiduciary duty and damages of \$1.25 million.

As a result of the partition action, Schenck Price's client realized a profit of more than \$1 million. After extensive litigation in both the Chancery and Law Divisions, at trial, Schenck Price successfully persuaded the court that the defendant had failed to establish the necessary elements required under the law to maintain their claims against the Trustees, resulting in the dismissal of the \$1.25 million claim. The trial court further agreed with Schenck Price's argument that the plaintiff was not liable for renovations performed on the commercial building and dismissed the defendant's counterclaim, as well. Schenck Price's success in obtaining a dismissal of all charges against their clients at trial was due, in large part, to O'Hern's tenacity, laser focus on the facts of the case, and knowledge of legal precedent.

Litigation

Successes for Large International Companies, Small Business Owners, and Individuals

Schenck Price provides tailored services to its clients in all manner of commercial disputes, including disputes that Schenck Price clients might have with former attorneys.

In one recent matter, Partner Thomas Cotton and Associate Marla Buitrago Rincon succeeded in bringing legal malpractice claims on behalf of their client, an international distributor of perfumes. Their client's former attorney mishandled a commercial litigation and then left the State of New Jersey. This required Cotton and Buitrago Rincon to investigate and pursue the defendant, and then prosecute the malpractice matter as effectively and as economically as possible. Buitrago Rincon led the team during the in-person proof hearing, which required detailed testimony from their client's CEO and a comprehensive presentation of document evidence.

Ultimately, the Court granted judgment in favor of our client for approximately \$100,000, which included not only attorneys' fees and costs, but also the legal fees paid by the client in the underlying commercial litigation and the compensatory damages the client would have received but for the prior counsel's malpractice.

Individual Solutions for International Supply Chain Problems

The consequences of the COVID-19 pandemic continue to be felt throughout various industries, especially those that rely on international supply chains. Schenck Price is proud to represent a host of clients that are major actors in, or otherwise depend upon, the worldwide channels of commerce.

The Firm offers unique opportunities to clients in this field. One chief reason is the nature of the Schenck Price culture, which calls for its attorneys to incorporate the specific, unique characteristics of its

clients into problem-solving processes that are guided by direct, uninhibited attorney/client communications. We make it our mission to cut through red tape and bureaucracy that stand in the way of the client's supply chain.

Over the past year, Schenck Price has crossed borders for its clients and litigated in jurisdictions that are—quite literally—a world away from the parties and products involved in the dispute. Whether it be a shipping dispute in Southeast Asia, an intellectual property lawsuit in California, or an arbitration right here in New Jersey, Cotton and his colleagues strive to make their clients feel at home when they are working with the Firm.

A Large Law Firm with an Underdog Mentality

Schenck Price is proud of its institutional, large-capital clients. However, that does not mean the Firm will disregard an individual client or small business who has been unjustly wronged. Quite the opposite. The Firm frequently leverages its expansive resources to service clients whose losses are often dismissed by similar law firms that are unable to adequately utilize their resources on an individual scale.

For example, Partner Tom Cotton not only represents international construction companies in large-scale disputes. He also represents individual homeowners in lawsuits against contractors—and just as often represents local contractors in lawsuits brought by individual homeowners. Over the past year alone, Cotton has litigated or resolved claims involving everything from plumbing repairs to cabinet installation, from roofing work to window design.



Marla Buitrago Rincon and Thomas J. Cotton

“My colleagues and I appreciate the effective and timely legal support from Schenck Price. Their team demonstrated strong professionalism, dedication, and specialization, delivering strategic solutions that led to a favorable outcome for us.”

~ A solar energy company

Litigation

An Appellate Practice Group with Real Appeal

Trial and verdict are often not the end of a litigation. They are only the beginning of the appellate process. And Schenck Price offers a proven history of guiding its clients successfully through that process.

The Schenck Price method starts at the beginning: The Firm actively recruits lawyers who have clerked for appellate judges. Those new attorneys bring a well-developed knowledge of what happens “behind the curtain” and allow Schenck Price to engineer appellate arguments that are specifically tailored for certain kinds of appeals. The result is a finely calibrated team, strategically designed to tackle appellate work for its clients and others seeking redress within the legal system.

The Appellate Practice Group’s lawyers frequently appear in the Appellate Division and Supreme Court of New Jersey, various federal courts of appeal, and administrative review courts. In the past year alone, Schenck Price attorneys have litigated claims in state and federal appellate courts covering all forms of disputes. These have included everything from an appeal involving unnecessary municipal restrictions imposed upon a fledgling restaurant to the enforceability of non-disparagement clauses.

Indeed, Schenck Price partner and appellate practitioner, Jake McCarthy, recently appeared before the Supreme Court of New Jersey, on behalf of a municipal client seeking affirmance of the decision of the Appellate Division, which held that the non-disparagement clause in a settlement agreement is enforceable despite a recent amendment to the state’s Law Against Discrimination.



*Appellate Practice Chair
Ryder T. Ulon*

Gamarello Attains Significant Victory in Commercial Land Ownership Dispute

On August 17, Associate Thomas Gamarello attained a significant victory on summary judgment before the Essex County Chancery Division. Gamarello represented a nonprofit community development corporation in its civil action against its neighbor, a church, who trespassed onto the corporation’s vacant property to place construction materials as if it was preparing to pave.

After attempts at amicable resolution did not prove fruitful, Gamarello filed a lawsuit on behalf of his client against the church in order to secure a judicial determination to prove the corporation is the deeded owner of the trespassed property, thus the church must cease and desist its improper trespass onto the property. In opposing the corporation’s ownership claim, the church claimed it owns the property either pursuant to the deeds or through the ancient doctrine of adverse possession. After Gamarello’s extensive briefing and oral argument, the Court granted summary judgment in favor of the corporation, finding the corporation owned the property pursuant to the deed and rejecting the church’s claim of ownership, including its claim of ownership through adverse possession.



Thomas N. Gamarello



John D. (Jake) McCarthy

Litigation

McCarthy Obtains Favorable Verdict in Jury Trial for School Board Client

A jury in Monmouth County entered judgment last year in favor of Schenck Price's long-time client, the Marlboro Board of Education. The plaintiff, a former instructional assistant in Marlboro, alleged age discrimination against the school district. In 2019, the district reduced the number of instructional assistants because of declining student need and budget constraints.

The plaintiff alleged that she was discriminated against because of her age when her contract with the district was not renewed. She further alleged age discrimination when the district did not rehire her for positions posted in the summer and fall of 2019.

Partner and School Law Chair Marc Zitomer is counsel to the Marlboro Board of Education. The board was represented at trial by Partner John (Jake) McCarthy. McCarthy was assisted in trial preparation by Associate Christopher Sedefian.

The plaintiff sought compensatory, emotional distress, and punitive damages against the board. If a verdict was entered in favor of plaintiff, the board would also have been responsible for plaintiff's significant attorney fees pursuant to the New Jersey Law Against Discrimination. McCarthy presented witnesses and evidence at trial that affirmed that the board's employees made decisions based upon the best interests of their students, and that age had nothing to do with plaintiff's nonrenewal. At the end of the five-day trial, the jury returned a unanimous verdict in favor of the Marlboro Board of Education and concluded that there was no age discrimination in the board's decisions to not renew or rehire the plaintiff. The verdict vindicated the board's administration, including its superintendent and the principal in the building where the plaintiff had worked.

McCarthy presented witnesses and evidence at trial that affirmed that the board's employees made decisions based upon the best interests of their students, and that age had nothing to do with plaintiff's nonrenewal.

2023 *Women's Initiative* Networking Reception Hosts Largest Crowd To Date



On May 3, more than 150 women attended Schenck Price's annual networking reception hosted by the Schenck Price Women's Initiative at the Park Savoy Estate in Florham Park.

Members of the group were delighted to spend the evening with clients, friends, and acquaintances from various professions. During the event, attendees connected with existing contacts and had the opportunity to meet new professionals to add to their network. All enjoyed an evening of conversation, food, and fun in the company of a great group of accomplished women.

"This year marked our largest reception yet and it was such a remarkable event because of our impressive guests," said Partner Meredith L. Grocott, pictured at left, Chair of the Schenck Price Women's Initiative.



"Schenck Price is always pleased to host this annual gathering which we hope helps empower women to advance and prosper across various disciplines."

Nonprofit Organizations

Ansari and McAnanly Assist Three Nonprofit Entities in Obtaining Full Forgiveness of Nearly \$17 Million in PPP Loans



Co-Chair Farah N. Ansari



Robert F. McAnanly

Schenck Price attorneys recently assisted three nonprofit entities in obtaining full forgiveness of Paycheck Protection Program (PPP) loans totaling nearly \$17 million.

Farah Ansari, Partner and Co-Chair of the Nonprofit Practice Group, and Robert McAnanly, Jr., Counsel in the Firm's Banking and Finance Practice Group specializing in small business lending, collaborated to obtain full forgiveness of these substantial loans.

The first client came to the Firm when it had trouble applying for forgiveness of a PPP loan of more than \$8 million. That client was told by its bank that it was ineligible for both the original PPP loan and forgiveness of that loan. Ansari and McAnanly presented the lender with innovative legal theories supporting the client's loan eligibility and right to full forgiveness of its PPP loan.

The U.S. Small Business Administration (SBA) eventually issued guidance which altered its position on nonprofit eligibility, using much of the same rationale that the Schenck Price attorneys had put forth. With the new guidance in place, they were able to push the lender to pursue further review of the loan by the SBA, without the need for a formal appeal. Full forgiveness was subsequently granted.

The additional two clients received formal forgiveness denials from the SBA. Ansari and McAnanly filed timely appeals of both denials through the SBA's Office of Hearings and Appeals and were able to obtain full forgiveness of the second non-profit's PPP loan, which exceeded \$5 million.

Schenck Price's third non-profit client that was formally denied forgiveness in July was able to receive full forgiveness with the guidance of Ansari and McAnanly. The grounds for denial were extremely broad and vague, necessitating resubmission of numerous supporting financial documents. They filed a timely appeal that included more than 60 exhibits. The thoroughness of the appeal prompted an immediate re-examination of the client's forgiveness application by the SBA. That new review resulted in full forgiveness of a PPP loan, which exceeded \$3 million.

Products Liability Defense

Aggressive Representation of Product Manufacturers in Federal and State Courts

Schenck Price's Products Liability team includes senior trial lawyers with many years' experience aggressively representing product manufacturers in federal and state courts, at the trial and appellate levels.



Mark K. Silver, Paralegal Mande M. Alicino, Timothy I. Duffy, Jonathan F. Donath, and Joseph C. Amoroso.

Our services to clients include defense of personal injury and property damage claims; fire and other casualty losses; chemical and toxic tort litigation; and counseling services for contract and insurance issues. Over the years, our clients have included manufacturers, distributors, and retailers in sectors including construction and building supplies, appliances, office equipment, outdoor power equipment, HVAC, drugs and medical devices, chemicals, propane, energy, and consumer products.

Giving Back to the Community — a Fundamental Schenck Price Value

*A*s one of the oldest law firms in New Jersey with deep roots in Morris County—111 years strong—Schenck Price cares deeply about the community it serves. Below are a few examples of how the Firm supported several of its neighbors through various initiatives, as well as larger communities across the country.



Maui Disaster Relief Fund

Following the catastrophic wildfires that devastated Maui, Hawaii, the Firm collected donations to contribute to the Maui Disaster Relief Fund through Maui United Way.

Halloween Fundraiser for Eleventh Hour Rescue

For the third year, Schenck Price attorneys and staff offered monetary donations as well as pet food and toys for Eleventh Hour Animal Rescue, a no-kill animal shelter in Morris County. In addition to donations, Schenck Price's pets were entered into a Halloween costume contest! Meet Luigi, our winner!

Holiday Food Drive

The Firm held a holiday food drive in December on behalf of the Interfaith Food Pantry of Morris County.

The SPSK Spinners Take on BIKE MS: Coast the Coast

The SPSK Spinners biked more than 400 miles and raised over \$5,700 in support of multiple sclerosis at the BIKE MS: Coast the Coast 2023 ride in Deal, New Jersey.

Schenck Price Partners with Local Organizations to Host Event for Big Brothers Big Sisters

Schenck Price, along with other members of the 2023 LEAD Morris class, hosted a day of fun for New Jersey's Big Brothers Big Sisters program at Picatinny Arsenal's Frog Falls Aquatic Park. Schenck Price was also a sponsor of the event.

Schenck Price Wears Pink for Breast Cancer

On National Mammography Day, October 20, attorneys and staff dressed in pink to show support for all who have been affected by breast cancer and to raise awareness about the importance of annual breast cancer screenings.

Family Promise of Morris County's Annual 5k Run

A Schenck Price team of attorneys, staff, family, and friends participated in Family Promise of Morris County's 3rd Annual Steve Hammond Homebound Hustle 5k and 1-Mile Walk. The Firm was delighted to be a sponsor of the event to support Family Promise's mission to end homelessness and housing insecurity throughout Morris County.



Professional Liability

Defending Hospitals Against Premises Negligence Claims

Schenck Price provides legal services to hospitals throughout the State of New Jersey. Litigation defense represents an important aspect of the services we provide to our hospital clients.

As is the case with all substantial institutions serving the public, occasionally patients and visitors suffer accidents on the hospital premises. The best outcome our law firm can achieve on behalf of our hospital clients is to obtain a complete dismissal of the lawsuit. This requires thoroughly investigating the incident and collecting the necessary evidence including documents and testimony to support a motion for summary judgment. A motion for summary judgment is a dispositive motion filed with Court wherein we present legal arguments establishing that the plaintiff cannot meet their legal burden and that the case must be dismissed as a matter of law.

In 2023, Schenck Price achieved multiple summary judgment victories on behalf of our hospital clients in high-stakes litigation.



Benjamin A. Hooper and Co-Chair William J. Buckley

In 2023, Schenck Price achieved multiple summary judgment victories on behalf of our hospital clients in high-stakes litigation where the plaintiffs suffered catastrophic injuries and even death. Employing our deep knowledge of the governing case law and legal standards, we zealously advocated for our hospital clients.

To establish a premises negligence claim against a hospital, a plaintiff must prove the existence of a dangerous condition and that the hospital either knew or should have known of the danger presented by

the condition. We have successfully argued in Court that under the relevant evidentiary standards it is insufficient for a plaintiff to merely point to the occurrence of an accident to prove liability, no matter how catastrophic the injury.

As part of our client advocacy, we work closely with general counsel, risk managers, and hospital operations professionals to establish the extensive efforts taken by the hospital to ensure a safe premises for its patients and visitors. The law requires the Courts to acknowledge the efforts made by the hospital to ensure a safe environment for patrons and that accidents may happen despite proper safety precautions.

Obtaining a court order granting summary judgment and dismissal of the lawsuit provides a substantial cost savings to our hospital clients and their insurers by avoiding the cost of bringing the case to trial or issuing settlement payments. Furthermore, a grant of summary judgement vindicates the substantial effort and expense on the part of our hospital client to provide a safe environment to the public.

Professional Liability

Schenck Price's Professional Liability Practice Group maintains a significant New Jersey presence in the medical malpractice area.

Schenck Price has been at the forefront of challenging specious economic theory and calculations, which can exponentially inflate claims of economic loss.



William J. Buckley and Catherine O'Hern

Led by Partners William Buckley and Peter Marra, the group is often retained to defend claims for wrongful death and catastrophic injury, where the claims of economic loss are in the multi-millions.

Schenck Price has been at the forefront of challenging specious economic theory and calculations, which can exponentially inflate claims of economic loss. In recent years, plaintiff economic experts have developed a category of economic loss originally entitled "loss of nighttime security services" and more recently entitled "loss of nighttime companionship services." Such damages are designed to compensate a surviving spouse for every hour of everyday that they do not get to sleep with the deceased spouse. Incredibly, the amounts claimed for "loss of nighttime companionship services" typically exceed the amounts claimed for loss of daytime companionship and services.

In 2023, The Schenck Price medical malpractice defense team successfully argued on multiple high exposure cases that New Jersey law does not recognize claims for "loss of nighttime security services," and barred the plaintiffs from pursuing such claims and protecting our clients from millions in potential economic damages.

Professional Liability

Hospitals and medical providers are subject to multiple New Jersey statutes and regulations providing immunity to liability or limitations of liability.



Matthew R. Parker

Partner William Buckley and Associate Matthew Parker successfully defended a New Jersey hospital providing medical services at a COVID-19 vaccination site.

Plaintiff claimed that she had slipped on the floor of the Vaccination Center before receiving her inoculation and brought suit against the hospital seeking to hold it liable for her injuries.

Buckley and Parker successfully argued that the cause of the plaintiff's fall was immaterial because the defendant hospital was statutorily immune from liability pursuant to the Emergency Health Powers Act. Based on the statutory immunity afforded to the hospital, the Court granted the defendant's motion for summary judgment holding that the plaintiff's claims were barred and should be dismissed with prejudice.

Schenck Price Attorneys: Sharing *Time and Talent* with Local Boards and Community Organizations

Over the years, many Schenck Price attorneys have contributed their expertise to non-profit groups and others, serving as board members and other community leaders. Below is a list of attorneys and their current participation.

Wynne Whitman	Member, Board of Trustees, Lafayette College
Edward Ahart	Member, Board of Trustees, Lafayette College Chair, Board of Trustees, The Fannie E. Rippel Foundation Chair, Board of Trustees, The Mimi Washington Starrett Foundation Member, Board of Trustees, The Mayo Performing Arts Center Member, Advisory Board, The Karl Stirner Arts Trail in Easton, PA
Gary Mazart	Member, Board of Trustees, The Mimi Washington Starrett Foundation
Jordan Wassel	Member and Counsel, Board of Trustees, The Mimi Washington Starrett Foundation
Shirley Whitenack	Appointed by Chief Justice Stuart Rabner to represent the New Jersey State Bar Association on the Judiciary Working Group on Elder Justice
Regina Spielberg	Chair, Planning & Guardianship Corporation Board, The ARC of Bergen and Passaic Counties
Meredith Grocott	Member, Board of Directors, Alzheimer's New Jersey
John Campbell	President, Summit Soccer Club
Jason Waldstein	President, Board of Directors, Family Partners of Morris and Sussex Counties
John Ursin	President, Endowment Board, Pope John High School Co-Chair, Board of Trustees, Birth Haven Chair, Finance Committee, Good Shepherd RC Church in Andover, NJ

School Law

Appellate Division Rules on the Meaning of a State-Issued Diploma

On May 24, 2023, the New Jersey Appellate Division sustained the Commissioner of Education's earlier decision which upheld the Sparta School District's determination that a student, who had been issued a high school diploma by New Jersey's Department of Education (DOE), could not re-enroll in its public schools.

"standard" or "regular" high school experience, including the plaintiff in this case.

In crediting Schenck Price's argument and upholding the Commissioner's decision, the Appellate Division noted that the DOE has concluded that students who pass the GED examination and apply to the State for a diploma, are entitled to that diploma which is fully aligned, for all intents and purposes, with the State standards adopted by the Department of Education. As such, it entitles a holder to all of the same benefits and privileges as a student obtaining a State-endorsed diploma which a student would obtain from a local public high school.

The case, and the question of federal preemption, were recently argued in front of the New Jersey Supreme Court. A concurrent federal lawsuit is presently stayed pending a decision by the Supreme Court.

The New Jersey Attorney General's office has appeared on behalf of the Department of Education and the New Jersey School Boards Association filed an Amicus Curiae brief in the Appellate Division in support of Schenck Price's client and the NJ DOE's position.

"The team of Education Law Attorneys at SPSK are professional, honest, informed and attentive. As Superintendent of the South Plainfield School District, I have come to rely on their expertise and consider them an integral part of our district. Their invaluable input regularly guides the Board and our Administrators on the myriad of complex legal issues we face on a daily basis."

~Dr. Noreen Tansey, Superintendent of the South Plainfield School District.



*Robin S. Ballard,
Joseph L. Roselle,
Katherine A. Gilfillan,
Joanne L. Butler,
Chair, Marc H. Zitomer,
Paul H. Green,
Alison L. Kenny,
Christopher J. Sedefian.*

The parent claimed that the student, who had been classified under the Individuals with Disabilities Education Act, was entitled to re-enroll in school, until the student received a "regular high school diploma" and that the State-issued diploma that the student had received was nothing other than a "GED in disguise."

Partner Katherine Gilfillan successfully argued that Congress has both historically and presently entrusted matters of substantive educational policy to the states. In dispatching that responsibility, the DOE promulgated an elaborate regulatory framework by which New Jersey citizens can demonstrate entitlement to a high school diploma. That framework entails multiple alternative pathways for students who do not neatly fit into a

School Law

Schenck Price is currently providing legal counsel to school districts throughout the state on board policies which seek to properly balance parental and transgender pupil rights, a topic that has gained significant statewide and national attention.



Marc H. Zitomer

Partner Marc Zitomer is currently litigating this issue on behalf of a Monmouth County school district client against the State of New Jersey and he has been quoted extensively about the case in such media outlets as CNN, Fox News, *The Star-Ledger*, the *New York Post* and Politico. He has also appeared on several legal panels discussing these important topics.



New Jersey Law Journal

NEW YORK POST

POLITICO

Zitomer, Chair of the Firm's School Law Practice Group, also argued an important case before the New Jersey Supreme Court about the interpretation of New Jersey's tenure laws as it applies to the employment of full-time and part-time teaching staff members.

The Court agreed with Zitomer's arguments that the Appellate Court misinterpreted and misapplied the Supreme Court's holding in another case, *Bridgewater-Raritan Education Ass'n. v. Board of Education of Bridgewater-Raritan School District*, 221 N.J. 349 (2015), when it imposed a new legal duty on school boards to notify such staff about their tenure status and rights when they transfer positions within a school district.

Training the *Next Generation* of Lawyers with Fairleigh Dickinson University

For several years, Schenck Price has been partnering with its Florham Park neighbor, Fairleigh Dickinson University (FDU) and its pre-law students. This relationship reflects the Firm's dedication to maintaining strong community ties and creating a lasting impact.

Pre-Law and Legal Studies Externship

In collaboration with FDU, Schenck Price created its first-ever Pre-Law and Legal Studies Externship this year. Through experiential learning opportunities offered by Schenck Price and its attorneys, students advanced their knowledge of law, furthered their understanding about the day-to-day responsibilities of attorneys, and learned about the diversity of legal practice areas. These "shadowing" opportunities included attending depositions, practice group meetings, client visits, and more. Adding another layer to the externship, Managing Partner Gary F. Werner was the 2023 course instructor.

In addition to the shadowing experiences, the students attended Gary's class sessions throughout the semester on essential legal skills, civil vs. commercial litigation, and components of client and case management, among other topics.

Schenck Price Receives the 2023 Pre-Law Community Champion Recognition

In Spring 2023, Schenck Price was honored to have been recognized as the 2023 Pre-Law Community Champion by Fairleigh Dickinson University's Pre-Law Program. This award was given to the Firm in recognition of its ongoing support to legal studies and its commitment to educating and training the next generation of attorneys.

The Schenck, Price, Smith & King LLP Pre-Law Scholarship

For the past two years, the Firm has invited FDU juniors and seniors who wish to pursue a career in law to apply for the Schenck, Price, Smith, & King LLP Pre-Law Scholarship. This scholarship was created to promote excellence in the legal profession and offer financial support to a candidate as they pursue a career in law. Managing Partner Gary F. Werner and FDU alumnus Marla Buitrago Rincon congratulated the 2023 scholarship recipient, Briana Luoro, and celebrated her plan to attend law school.



Managing Partner Gary F. Werner is presented with a plaque by FDU law professors Maddie S. Ferrans and Bruce Peabody.

"As the Director of the FDU Pre-Law Program, it is very rewarding to be able to offer our students a unique opportunity to connect legal theory with real-world experiences. The partnership between FDU and Schenck Price elevates the Pre-Law Program and allows our students to grow professionally through 'in-the-field' experiences, mentorship, and financial support through the Schenck Price Pre-Law Scholarship. I thank the Firm for its continued support and collaboration!"

~Madelyn S. Ferrans

Attorney, Lecturer of Law, and Director of the Pre-Law Program at FDU



Schenck Price attorneys pose with FDU staff and students.

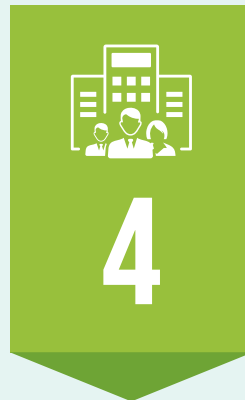
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YEARS IN BUSINESS



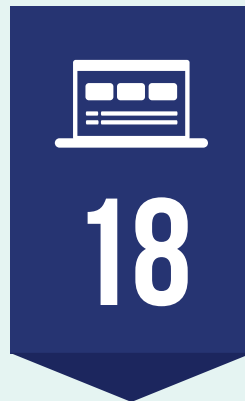
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NUMBER OF PRACTICES



2023 NEW JERSEY LAW JOURNAL LARGEST FIRM RANKING





In Memoriam

Stephen A. Geffner

The attorneys and staff of Schenck, Price, Smith & King mourned the passing of long-time partner Stephen A. Geffner this past summer. Steve was a Founder and Senior Partner of Gallo Geffner Fenster P.C., which merged with Schenck Price in 2006.

“Steve was a talented and successful attorney who exemplified the best of Schenck Price,” said Gary F. Werner, Managing Partner. “He was a trusted counselor to his clients and a good friend. We will miss him.”

Steve represented commercial and residential real estate developers in land use matters as well as injured individuals in major workers’ compensation cases. A recipient of the Brandeis Award for legal and community achievement, Steve also held several positions in Livingston, New Jersey, including Mayor and Councilman.

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