



## Stuart F. Klein

### Member

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### Profile

**Stuart concentrates his litigation practice in commercial matters and has extensive experience in all phases of federal and state court proceedings, as well as appellate courts. In addition to Stuart's active litigation practice he also routinely counsels clients pro-actively to avoid litigation.**

Stuart's diverse commercial litigation practice includes representing clients in a variety of business disputes ranging from complex breach of contract claims, business torts, fraud, unjust enrichment, unfair competition, breach of fiduciary duty, tortious interference with contract, defamation, whistleblower claims, partnership dissolution proceedings, complex insurance coverage disputes, disability insurance, Article 78 Proceedings, professional malpractice claims, enforcement of employment agreements, covenants not to compete and non-disclosure agreements and ERISA litigation.

In addition to Stuart's commercial litigation experience, he routinely represents individuals, business, municipalities and colleges and universities in liability based claims, including claims for personal injury, premises liability, products liability, labor law claims, general product failure, toxic torts, motor vehicle accidents, fire loss and construction accidents.

Stuart's active commercial litigation practice is complemented by the work he does as part of the firm's tax assessment, condemnation and property valuation practice. As part of this group, he handles all facets of property tax assessment appeals on behalf of institutional, industrial, commercial, residential, and municipal clients. The types of properties that Stuart has experience with include gas pipelines, manufacturing facilities, utility properties, hotels, warehouses, restaurants, dairies, creameries and residential properties.

### Representative Matters

- Lead trial counsel in a triple fatality wrongful death lawsuit where plaintiffs' claim that fatal levels of carbon monoxide were emitted from a defectively designed and installed furnace.
- Represented and successfully negotiated a settlement on behalf of our client, a Fortune 10 Company, in a double fatality wrongful death action stemming from an industrial explosion at a former CERLA Superfund Site.
- As lead trial counsel obtained a defense verdict absolving our client and sole defendant, a local HVAC technician, from liability stemming from a fire that

### Education

- Syracuse University College of Law (J.D., *magna cum laude*, 1999)
- State University of New York at Geneseo (B.A. 1996)

### Bar/Court Admissions

- New York
- U.S. Court of Appeals for the Second Circuit
- U.S. District Court for the Northern District of New York
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Western District of New York

### Practices

- Municipalities
- Toxic Tort and Environmental Litigation
- Tax Assessment, Condemnation & Property Valuation
- Litigation
- Manufacturing

completely destroyed a supermarket in Bolton Landing, New York.

- Represented a Fortune 10 Company in a putative class action in which damages were sought for the diminution in property value allegedly sustained as a result of exposure to various chemicals that migrated from our client's industrial site to plaintiffs' properties.
- Lead counsel for numerous colleges and universities in the Capital Region for premises liability and personal injury claims that occur on their respective campuses.
- Represented and successfully negotiated a settlement in a wrongful death product liability action where the accident in question occurred when the decedent entered an industrial paper shredder and baler prior to the equipment being de-energized.
- Obtained the dismissal of various personal injury actions for the Albany County Airport Authority as a result of plaintiff's failure to adhere to New York's statutory notice of claim requirement. *Heffelfinger v. Albany County Airport Auth.*, 43 A.D.3d 537 (3rd Dep't 2007); *Kirtley v. Albany County Airport Auth.*, 67 A.D.3d 1317 (3rd Dep't 2009).
- Represented numerous employers in the Capital Region in lawsuits related to the enforceability of covenants not to compete, non-solicitation agreements and non-disclosure agreements.
- Successfully negotiated numerous multi-year settlements on behalf of a Hudson Valley utility company for its electric transmission and distribution facilities in various towns within Orange County, New York.
- Successfully negotiated a settlement on behalf of various municipalities in Schoharie County related to the tax assessment of certain natural gas pipeline and distribution facilities within the County.
- Represents a worldwide IT company in a Sarbanes-Oxley (SOX) whistle blower lawsuit before the Occupational Safety and Health Administration and in federal district court.
- Defended a professional association consisting of hundreds of securities firms, banks and assets managers in a claim for unjust enrichment and quantum meruit damages stemming from claims asserted by the association's former association management company. *DG&A Management Services, LLC v. Securities Industry Assoc.*, 52 A.D.3d 922 (3rd Dep't 2008); *DG&A Management Services, LLC v. Securities Industry Assoc.*, 78 A.D.3d 1316 (3rd Dep't 2010).
- Successfully defended employers and ERISA plan administrators in disputes over benefits under employment plans covered by The Employee Retirement Income Security Act (ERISA) and the associated federal regulations.
- Successfully represented a utility company in an Article 78 proceeding in which the utility was able to have certain valuation data exempt from FOIL on the basis that such information was trade secret and/or confidential business information. *City of Schenectady v. O'Keefe*, 50 A.D.3d 1384 (3rd Dep't 2008).
- Negotiated a settlement on behalf of a utility company related to the enforceability of the terms of a Gas Transportation Agreement.

## Honors & Affiliations

- Listed in:

- The Best Lawyers in America®, Commercial Litigation
- *New York Super Lawyers*®, Business Litigation, 2021-2024
- New York State Bar Association
- Albany County Bar Association
- Justinian Honorary Law Society
- Order of the Coif
- Associate Notes and Comments Editor, *Syracuse Law Review*
- Patriotic Employer Award, Employer Support of the Guard and Reserve (ESGR), 2022

### Representative Presentations

- Litigation Avoidance, Malta Business and Professional Association, October 12, 2016

### Other Activities

- 2007 Graduate, Leadership Tech Valley Program
- Volunteer, Make-A-Wish Foundation of Northeast New York
- Board Member, Business Services Corporation of the Albany-Colonie Regional Chamber of Commerce
- Albany County Bar Association Mock Trial Competition, Volunteer Coach and Judge
- Board Member, Bethlehem Lacrosse Club, Inc.