



Leah Kelman

Partner

lkelman@herrick.com

(973) 274-2004 PHONE

(973) 274-6411 FAX

Leah Kelman is a litigator concentrating her practice on complex commercial litigation, including class action defense, title insurance, and professional responsibility, ethics and risk management.

Leah's class action and product liability experience in state and federal courts is substantial. She was a key member of the teams that successfully defended a major food manufacturer in class actions challenging health claims on product labels; defeated class certification consumer class action brought against a manufacturer of fruit snacks; successfully defended an international building materials company against product liability and consumer fraud claims arising from the alleged failure of a roofing system in the wake of Hurricane Sandy; secured the complete dismissal of a purported consumer class action alleging a multinational mobile device company had knowingly sold products with defective data processing capabilities; secured summary judgment dismissal of defect claims against a tire manufacturer; and defended a global construction materials company in multi-party litigation arising from a fire that destroyed a massive cold storage warehouse.

Leah also has substantial experience in title insurance litigation representing many of the major title insurance companies in New York and New Jersey in complex real estate claims on behalf of their insureds. She also has significant experience in real estate litigation in matters involving breach of contract, partnership disputes, economic torts including fraud, breach of fiduciary duty and tortious interference claims.

Leah advises the firm on a range of matters including ethics compliance, litigation, risk management and insurance issues. Leah is a member of the firm's Risk Management Committee and serves on the firm's Electronic Discovery Committee.

Services

- Litigation
- Corporate Litigation
- Product Liability
- Title Insurance
- E-Discovery and Data Management

Education

- University of Maryland School of Law (J.D.)
- University of Maryland Baltimore County

Accolades

[Herrick, Feinstein LLP Wins New Jersey Law Journal's Commercial Litigation Department of the Year-Finalist](#)

Publications

November 2019

Beacon Associates LLC I et al v. Beacon Associates Management Corp. et al (Case 1:14-cv-02294-AJP)

April 30, 2015

Will New Jersey Federal Courts Dismiss Class-Action Complaints at the Motion to Dismiss Stage?

New Jersey Law Journal

May 2014

War College Curriculum for Defense Counsel

LJN's Product Liability Law & Strategy

June 2010

Practice Tip: The Rules of the Court of Public Opinion, Publicity of Products Liability Litigation
LJN's Product Liability Law & Strategy

November 2009

Show Me Your License and Registration: Reasons to be Concerned About In-House Bar Admissions

Greater New York Chapter of Association of Corporate Counsel's Annual Ethics CLE Program

Beacon Associates LLC I et al v. Beacon Associates Management Corp. et al (Case 1:14-cv-02294-AJP)

Matters

NFL Franchise - Class Action

Represented a national football league team in a class action.

Real Estate Developers - Breach of Promissory Note and Fraudulent Conveyance Claims

Representing real estate developers in their efforts to pursue damages in excess of \$10 million against the estate of a former "asset rich but cash poor" business partner who had defaulted on a short term, multimillion dollar loan - originally guaranteed and later acquired by our clients - for the purpose of co-investing in real estate deals. In addition to a claim for breach of a promissory note, this litigation includes multiple fraudulent conveyance claims against the executors of the estate as well as a myriad of shell entities we allege were created to receive the estate's assets - including a large diamond manufacturing businesses and substantial real estate holdings - in an effort to avoid creditors' claims.

Cooper Tire & Rubber Company - Product Liability Litigation

On August 5, 2019, Justice Alison Tuitt of the New York Supreme Court, Bronx County, granted longtime Herrick client, Cooper Tire's motion for summary judgment in a product liability action that has been pending for over 8 years. This case emanates from a tragic and highly publicized accident involving multiple fatalities in 2010 where a church van experienced a rollover after a left rear tire failure. Cooper Tire manufactured the failed tire and asserted from the outset that it was not defectively manufactured or designed, nor was it the proximate cause of the incident. The Court, while keeping Ford Motor Company in the case on various theories of product liability, dismissed all claims and cross-claims against Cooper Tire, finding that the tire it manufactured had been misapplied, misused and abused, leaving it in a different condition than it had been at the time of its manufacture in 2003.

Challenge to New York State's Charter School Funding Law

Represented the plaintiffs in *Brown v. New York*, and initially secured a winning ruling in New York State Supreme Court denying a motion to dismiss our lawsuit challenging New York State's method of funding public charter schools. Our clients, five "representative" families whose children attend charter schools in the state and a Charter School advocacy organization for its member New York charter schools (Northeast Charter Schools Network), argued that New York's practice of providing charter students with as little as three-fifths of what district students receive in the same community, violates the state Constitution and disproportionately affects children of color and lower incomes. While we ultimately lost on appeal, the ruling was particularly important as similar claims raised by charter school parents in four other states – North Carolina, New Jersey, Arizona and Texas – all failed to survive lower court defense motions to dismiss.

All Claims Dismissed in Litigation Challenging \$9 Million Sale of Brooklyn Apartment Building

Secured a ruling dismissing all claims against the insured buyers of a Brooklyn apartment building in litigation seeking to strip them of their interests in the property. The plaintiff launched a multi-pronged attack on the \$9 million sale of the building, claiming the transaction had violated his right of first refusal, that the individual who had signed the deed transferring title to the property lacked capacity, and that the deed itself was a forgery. In its ruling, a New York state court granted our motion to dismiss in its entirety and cancelled the notice of pendency.

Successful Defense of Foreclosure Action Challenged on the Eve of Scheduled Sale

Successfully represented the holder of a first priority mortgage secured by a West Harlem property insured by our title insurance client in an order to show cause proceeding initiated by parties claiming to be the debtor's custodians and seeking to challenge a fully litigated foreclosure action on the eve of the foreclosure sale. The court denied in its entirety the plaintiffs' motion to set aside the debtor's default and vacate the judgment of foreclosure and sale.

Private Equity Credit Investing Arm - Disability Insurance Dispute

Representing the credit investing arm of a publicly traded private equity firm, with \$19 billion under management, in a dispute with insurers over payment of disability benefits under a multimillion dollar "key man" policy insuring our client's former co-chief executive officer.

Red Rock Services Trustee - Appellate Victory in Bankruptcy Litigation

Herrick secured an appellate victory for the chapter 7 trustee of bankrupt demolition subcontractor Red Rock Services, affirming a judgment of almost \$1 million won in a bankruptcy adversary proceeding in the Eastern District of Pennsylvania. On behalf of the trustee, Herrick sued a general contractor for breach of its obligations under subcontracts with Red Rock in a pair of multimillion dollar construction projects in Baltimore and Boston. After eight days of trial, the trustee was awarded a judgment of almost \$1 million, including attorneys' fees. Herrick defended the judgment on appeal to the district court, where it was affirmed, and went on to successfully defend the ruling on the defendant's second appeal to the Third Circuit, which affirmed the judgments of the bankruptcy court and district court in their entirety.

Turkish Exporter - Favorable Jury Verdict and Judgment in Breach of Contract Litigation

Obtained favorable jury verdict and judgment on behalf of a Turkish furniture exporter asserting breach of contract claims in New Jersey federal court against a former business partner and the former head of the client's U.S. affiliate.