



## Lee Henig-Elona

### OF COUNSEL

Livingston

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### RELATED SERVICES

- Commercial Litigation
- Construction
- Chemical Exposure
- Environmental Remediation & Superfund (CERCLA/RCRA)
- Environmental & Toxic Tort
- Asbestos & Talc
- Environmental Compliance

### OFFICES

- Livingston
- New York

### OVERVIEW

Lee Henig-Elona is Of Counsel with GRSM in the Environmental & Toxic Tort Group. She handles federal and state court environmental litigation, defense of individual and mass toxic torts and products liability as well as commercial litigation and negligence suits brought pursuant to New York's Labor Laws.

Lee has successfully defended manufacturing clients in mass tort claims involving allegations of phosphorus oxychloride exposure; personal-injury suits alleging defective or mislabeled products; and multiparty property damage cases involving allegedly contaminated property. She has defended claims by neighbors of chemical and coatings manufacturers, workplace exposures brought by independent contractors and mold exposure claims. In addition, Lee has defended numerous Labor Lawsuits alleging negligence and strict liability.

She also defends manufacturers of products that are alleged to be defectively designed, manufactured or sold without adequate warnings. Lee's representative cases have involved breast implant multi-district litigation; asbestos suits; exposures from pipe ruptures, defective machinery and equipment, mislabeled food products and medical devices.

Lee has extensive experience in environmental issues such as soil and groundwater contamination; landfill closure and remediation; asbestos defense; cost recovery actions; and chemical exposure in the workplace. She represents clients in cases that involve the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; the New Jersey Spill Compensation and Control Act; and New York Navigation Law. In addition, Lee has represented numerous environmental consultants in a wide range of settings.

Lee has represented clients in administrative hearings on odor, air, hazardous waste, water and noise pollution matters resulting from allegations of permit violations or administrative refusal to issue permits. In addition, she provides counseling on development issues including permitting in coastal zones, wetlands, stream encroachments and waterfront. She has been involved in many Industrial Site Recovery Act ("ISRA") applications since the Act was promulgated in 1984. ISRA involves site investigation and remediation in connection with a "triggering event" at an industrial establishment, such as a sale of the real estate, reduction in workforce or change in company ownership. In New Jersey, the Technical Requirements for Site Remediation provides a complex regimen for investigation and remediation. Lee has also assisted numerous clients undertaking site investigations in pre-acquisition due diligence to obtain 'innocent purchaser' status, in response to Spill Act Directives or Administrative Consent Orders, and in voluntary actions including Brownfields redevelopment projects.

Lee represents numerous companies in the pending federal Lower Passaic River Superfund litigation involving the remedy for dioxin-contaminated sediments in the River and was one of three liaison counsel for a group of private defendants in the pending cost recovery suit brought by Occidental Chemical Corporation.

## **REPRESENTATIVE EXPERIENCE**

### **Product Liability/Toxic Tort**

- Defense of chemical manufacturer in action brought by neighborhood seeking personal injury and property damage resulting from catastrophic release of phosphorus oxychloride to the air
- Defense of paint manufacturer in wrongful death and personal injury actions resulting from fires caused by fast-drying floor coatings
- Defense of food manufacturer in class action asserting false labeling of fats and sodium in snack product

- Defense of medical equipment manufacture sued when plaintiff's head was struck in pill coating machine
- Defense in asbestos personal injury litigation in NYCAL and Middlesex County, NJ

#### **Environmental Cost Recovery Litigation**

- **Passaic River, Newark, NJ** – Common counsel to several companies sued by dioxin-manufacturer for contribution under CERCLA in connection with the contaminated sediments of the Lower Passaic River. Also serves as Liaison Counsel to approximately 25 additional defendants
- **Shpack Landfill, Attleboro, MA** – Defense of former jewelry manufacturer in CERCLA administrative action involving mixed waste landfill containing Department of Defense and private party radioactive wastes and chemical wastes. Negotiation of Consent Decree involving the Army Corps of Engineers cleanup of radiological material pursuant to the FUSRAP program. Served on Technical Committee to ensure the most cost effective and beneficial disposal options to meet EPA's Record of Decision
- **Pinecastle Jeep Range, FL and Raritan Arsenal, NJ** – Represent national home builder in cost recovery action against US government regarding unexploded ordnance left on former Department of Army facilities
- **Ramp Dry Cleaning, Hightstown, NJ** – Defense of former dry cleaner in cost recovery action commenced by landlord due to PERC contamination in soil under strip mall buildings and groundwater
- **Former Russo Site, Newark, NJ** – Represent industrial property owner in cost recovery suit against lessee trucking companies which contaminated soil and groundwater with motor oils, gasoline and solvents
- **Bonnieview Homeowners, Montville, NJ** – Defense of real estate developer who unknowingly built houses on former apple orchard that was contaminated with pesticides. Successful in obtaining dismissals of RCRA and common law claims and settling CERCLA claim in exchange for client's performance of soil blending to reduce pesticide concentrations
- **Congress Landfill, Hillside, IL** – Defense of landowner in CERCLA litigation brought by adjacent Landfill claiming that trucking operations caused harm to Landfill
- **Farmers Ave., Bellmore, NY** – Defense of homeowner in contribution action by neighbor under NY Navigation Law regarding allegations of leaking underground storage tank causing damage to property and stream

#### **New York Labor Law §200, §240 and §241**

- Represent property owners and contractors in personal injury suits involving plaintiffs' fall from heights, failure to use harnesses, improper use of equipment, slips & falls on construction debris, improper lighting and other alleged hazardous conditions or negligent means and methods

### **Environmental Consultants**

- Represent environmental consultants in claims involving failure to identify lead paint or asbestos, failure to properly delineate wetlands, failure to secure area of emergency response, failure to remediate soil or groundwater, improper disposal of waste, improper use of vacuum truck or equipment, failure to identify historic fill and failure to comply with site restrictions

### **Regulatory Compliance**

- Represent former manufacturer with regard to its legacy site issues related to participation in Administrative Orders on Consent with USEPA Region 2 involving RI/FS for the Lower Passaic River Study Area and a Removal Action for a dioxin-contaminated mudflat in the River. Advise client regarding the statutory authority of EPA pursuant to CERCLA, developing case law and the practical pros/cons of entering into voluntary agreements with the government to perform agreed-upon scope of work

### **Administrative Proceedings**

- Defense of fat rendering operation in connection with penalties and injunction relating to odors and violations of water pollution control laws
- Defense involving work related vehicle accidents subject to DMV hearings
- Defense of municipal solid waste transfer station operator charged with violations relating to waste flow rules, inspections and permit requirements
- Defense of chemical manufacturer in connection with OSHA violations relating to training, recordkeeping, confined space rule and lock-out tag-out requirements
- Defense of regulated medical waste transporter in connection with alleged packaging and labeling requirements

### **Construction**

- Defense of general contractor of residential apartment complex regarding personal injury claims arising from alleged exposures to mold and HVAC-dispersed construction and drywall dust
- Defense of general contractor in personal injury action arising from alleged exposure to natural gas from restaurant equipment exhaust systems and sewer gas from faulty plumbing
- Defense of School District in personal injury suit by lunchroom worker allegedly exposed to mold due to water damage caused by inadequate roof repairs
- Defense of drilling subcontractor on East Side Access Tunnel project regarding silicosis claim of a “nipper”
- Defense of general contractor and co-op owner in commercial remodel of retail space allegedly mold and dust caused property damage, personal injury, loss of income and injury to dog

## PUBLICATIONS

*New York's Expanded Insurance Disclosure Law Creates More Problems Than Solutions*, GRSM Insurance Update, January 25, 2022

*New Jersey Supreme Court Finds Liability Possible For Replacement Parts Supplied By Others If Original Product Contained Asbestos Components*, GRSM Environmental & Toxic Tort Defense Insight, June 12, 2020

*Last Defendant at Trial, You Are Not Alone: Apportionment Under New Jersey Law*, GRSM Environmental & Toxic Tort Defense Insight, September 19, 2019

*When is the Statute of Limitations Period Triggered for a Construction Defect Claim in New Jersey?*, GRSM Construction Law Blog, October 12, 2017

*Property Seller's Failure to Disclose Environmental Cleanup Actionable, Even For "As Is" Sale*, GRSM Environmental & Toxic Tort Defense Insight, September 13, 2016

*New Jersey Supreme Court Decides Developer/General Contractor's CGL Policy Covers Damages Arising from Subcontractor's Faulty Workmanship*, August 2016

*Important Recent Decisions From New York City Asbestos Litigation*, GRSM Environmental & Toxic Tort Defense Insight, December 31, 2014

*What It Takes to Establish Divisible Harm Under CERCLA*, *New Jersey Law Journal*, July 21, 2014

*Asbestos Personal Injury, Wrongful Death Plaintiffs May Seek Punitives in NYC Cases*, GRSM Environmental & Toxic Tort Defense Insight, April 18, 2014

*EPA Announces \$1.7 Billion Cleanup Plan for Lower Passaic River*, GRSM Environmental & Toxic Tort Defense Insight, April 17, 2014

## PRESENTATIONS

*New York's Expanded Insurance Disclosure Law Creates More Problems Than Solutions*, GRSM Insurance Update, January 25, 2022

*New Jersey Supreme Court Finds Liability Possible For Replacement Parts Supplied By Others If Original Product Contained Asbestos Components*, GRSM Environmental & Toxic Tort Defense Insight, June 12, 2020

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## **CREDENTIALS**

### **Admissions**

- New Jersey
- New York
- U.S. District Court for the District of New Jersey
- U.S. District Court for the Southern and Eastern Districts of New York
- U.S. Court of Appeals for the 3rd Circuit
- U.S. Court of Federal Claims

### **Education**

- J.D., *cum laude*, New York Law School
- B.A., *cum laude*, Economics, Rutgers University