

**BENNETT J. WASSERMAN
COUNSELOR AT LAW**

CONSULTING OFFICES:

legalmalpractice.com
3 University Plaza
Hackensack, New Jersey 07601
Tel: (201) 488-1222
Cell: (201)803-6464
benwasserman@legalmalpractice.com

LAW OFFICES:

375 Cedar Lane
Teaneck, New Jersey 07666
Tel. (201) 907-5000
Cell: (201) 803-6464
Direct Fax: (973) 556-1776
Bennett.Wasserman@dsslaw.com

ACADEMIC OFFICES:

Hofstra University
Maurice A. Deane School of Law
121 Hofstra University
Hempstead, New York 11549-1210
Cell: (201) 803-6464
Bennett.J.Wasserman@hofstra.edu

WEB BIOS:

Consulting offices:

<http://www.legalmalpracticelawreview.com/2009/10/promo/editorial-board/bennett-j-wasserman/>

Law Offices:

<http://www.dsslaw.com/bennett-wasserman/>

Academic Offices:

http://law.hofstra.edu/Directory/Faculty/AdjunctFaculty/adjfac_wasserman.html
www.dsslaw.com/bennett-wasserman/

EXPERIENCE:

Active participation in more than 1,000 legal malpractice cases as counsel for litigants or as consulting or testifying expert witness in transactional and litigation based matters; teaching of advanced law students a full semester course entitled "Lawyer Malpractice" at Hofstra University Law School, since 1990. Founder and Editor-in-Chief, *Legal Malpractice Law Review*.

BAR ADMISSIONS:

New York (1975), New Jersey (1976) and Pennsylvania (1983) State and Federal Courts; Supreme Court of the United States.

CERTIFICATIONS:

Supreme Court of New Jersey: Certified Civil Trial Attorney (1985);

American Board of Professional Liability Attorneys, Diplomate in Legal Malpractice (2012). (Member, Board of Governors)

RATINGS/HONORS:

AV™ - Martindale-Hubbell;

Bar Register of Preeminent Lawyers (Lexis/Nexis Martindale Hubbell);

Best Lawyers in America® 2010, 2011, 2012, 2013 (Legal Ethics and Professional Responsibility Law and Legal Malpractice Law);

The Best Lawyers in the United States (1985);

SuperLawyers® New Jersey 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013 (Professional Liability) (Thomson Reuters)

“Lawyer of the Year, 2008”-- New Jersey Law Journal (Dec. 24, 2008) with co-counsel on *In re Opinion 39 of the Committee on Attorney Advertising*.

www.Avvo.com (10 out of 10, legal malpractice)

OCCUPATION:

Legalmalpractice.com

V.P. and General Counsel, Consultant to lawyers, law firms, and liability insurance companies on legal malpractice (plaintiff and defendant); qualified as expert witness by courts in the field of legal malpractice, legal ethics and law firm billing.

Davis Saperstein & Salomon, PC (Teaneck, NJ and NYC),
Of Counsel and Chair, Legal Malpractice Law Section (January 2011 to date)

Special Professor of Law (in Lawyer Malpractice).
Hofstra University, Maurice A. Dean School of Law, Hempstead, New York (1990 to date)

Editor-in-Chief, “*Legal Malpractice Law Review: Research, Resources and Expertise in the Law Governing Lawyers*” (Oct. 2009 to date). <http://www.legalmalpracticelawreview.com>

PRIOR EMPLOYMENT:

Of counsel to Stryker, Tams & Dill, L.L.P., (Newark, NJ and New York, NY) (2002-2010).

Bennett J. Wasserman, A Professional Corporation, Hackensack, New Jersey (1983 to 2002)

Moderator, National Legal Malpractice Forum; Co-Moderator, N.J. Professional Liability Law Forum, Counsel Connect (on-line computer discussion groups for lawyers on professional liability.)

Partner and New Jersey counsel to Harry H. Lipsig, Esq., (Lipsig, Sullivan & Liapakis, P.C. New York, New York.) (1978 - 1983.)

Associate to Arnold B. Elkind, Esq., (Elkind, Lampson & Sable, Esqs., New York, New York), former Chairman of the National Commission on Product Safety (1974 - 1978.)

Merck & Co. (Merck Sharp & Dohme Div.); Professional Representative (pharmaceutical marketing) (1969-1971.)

Areas of Practice. Civil Litigation; Advocacy and Counseling in the law governing lawyers (legal malpractice, legal ethics; attorney advertising, attorney billing practices,) commercial transactions and commercial litigation; real estate litigation; real estate transactions, family law, construction and land use and development, mortgage foreclosures; securities litigation; professional due diligence; health care law, medical liability; professional malpractice; commercial torts; general negligence; toxic torts; construction site accidents and construction defect litigation; railroad and product liability in the federal and state courts of New Jersey, New York and Pennsylvania; employment law, Occupational Safety & Health (OSHA); collective bargaining, intellectual property, wills, trusts and estates, environmental law; bank and securities fraud.

Responsibilities include case strategy development and implementation, investigation, discovery, motion practice, appeals, overall management of major litigation and appellate cases. Alternate Dispute Resolution.

Serving as lead counsel to public and close corporations, municipal entities and individuals in major legal malpractice actions arising from botched commercial litigation and transactions; securities, intellectual property; family law, health care law and financing; real estate law and financing; land use and development; wills, trusts and estates, employment law, patent and trademark law; family law; tort litigation; ineffective assistance of counsel in criminal defense; breach of fiduciary duty, et al.

Serving as consulting and/or testifying expert on behalf of litigants, law firms, lawyers and professional liability insurers.

Serving as counsel for plaintiffs in cases of catastrophic injuries involving multiple parties; negotiating and concluding structured and lump sum settlement awards for the seriously injured; representing clients in all phases of non-litigation matters including real estate, labor, wills, estates, commercial transactions. Alternate Dispute Resolution, general law practice; defense counsel for excess liability exposure in professional liability cases (medical and legal), professional liability claims evaluation, review, administration and resolution.

Serving as defense counsel designated by select professional liability carriers in major legal malpractice cases.

Served as defense counsel in product liability, personal injury cases on behalf of Tokio Marine Insurance Company, the largest Japanese liability carrier insuring companies such as Panasonic, Honda, Matsushita Electronics Corporation and other liability insurance carriers.

-Expert witness in the law governing lawyers, including legal malpractice, legal ethics, lawyer advertising and law firm billing practices, including consulting, case strategy, expert witness affidavits of merit, reports, testimony in depositions, trial and arbitration venues.

**NOTEWORTHY MATTERS &
FREQUENTLY CITED DECISIONS:**

In re Opinion 39 of the Committee on Attorney Advertising, 197 N.J. 66, 961 A.2d 722 (2008) (**Attorney of Record-co-counsel for petitioners and intervenor/petitioners**) wherein the N.J. Supreme Court declared two of its own Rules of Professional Conduct unconstitutional as violative of commercial free speech.

Carbis Sales, Inc. et al v. Eisenberg, et al., 397 N.J. Super. 64, 935 A.2d 1236 (App. Div., 2007) (liability of designated defense counsel to his insurance carrier, net opinion rule) (**Expert witness**)

Fiorentino v. Frank Rapoport, Saul Ewing, et. al, 693 A.2d 208 (Pa. Super.) app. denied. 1997 PA. 2323 (1997). (Negligence, contract and fiduciary duties of lawyer in commercial transaction) (**Expert witness**).

Huber v. Watson, 568 N.W.2d 787 (Sup. Ct. of Iowa, 1997) (litigation malpractice, failure to name appropriate parties in underlying asbestos suit) (**Expert witness**).

Vahila et. al. v. Charles D. Hall, III, et. al. 77 Ohio St.3d 421, 647 NE2d 1164 (1997) (Sup. Ct. of Ohio). (proving the case within a case in underlying criminal defense case with expert witness) (**Expert witness**).

Profit Sharing Trust v. Lampf, Lipkind, et al. 267 N.J. Super 174, 180, 630 A.2d 1191 (Law Div., 1993). (Fiduciary duty of law firm to refrain from prohibited transactions with client under RPC 1.8) (**Expert witness**).

Olds v. Donnelly, 291 N.J. Super. 222 (1996) *aff'd* 150 N.J. 424 (1997) (**Expert witness**) reverses *Circle Chevrolet Co. v. Giordano, Halleran & Ciesla* (which held entire controversy doctrine inapplicable to legal malpractice claims)

Estate of Re v. Kornstein, Veisz & Wexler, 958 F. Supp. 907 (SDNY 1997) (fiduciary duty of lawyer in the absence of negligence) (**Expert witness**).

Sklodowsky v. Lushis, 417 N.J. Super 648, 11 A.3d 420 (App. Div. 2011) (entire controversy doctrine does not bar subsequent legal malpractice action) (**Expert witness**)

Higgins v. Thurber, 413 N.J. Super. 1, 992 A.2d 50 (App. Div. 2010) (entire controversy does not bar subsequent legal malpractice action in an estate case) (**Consulting Expert to Plaintiff**);

Dinter v. Sears, Roebuck & Co., 278 N.J. Super. 521 (1995).
(Attorney of record).

Kostick v. Janke, et al., 221 N.J. Super 37 aff'd 223 N.J. Super 311
(App. Div. 1988) **(Attorney of Record).**

PUBLICATIONS:

"*The Ubiquitous Detailman...*" 1 Hofstra Law Review 183-213
(1973) -- reprinted in Paul D. Rheingold, DRUG LITIGATION, 3rd
Edition (1981), and in PRECLINICAL AND CLINICAL TESTING BY
THE PHARMACEUTICAL INDUSTRY, 1975, Joint Hearings before
the Subcommittee on Health and Administrative Practice and
Procedure of the Committee on the Judiciary, United States Senate,
94th Congress, pages 1258-1280; cited in Dixon, TREATISE ON
DRUG PRODUCT LIABILITY, s.6.10, et seq.

SYMPOSIUM ON PRODUCT LIABILITY AND SAFETY, Volume II,
Hofstra Law Review (1974), (Articles Editor and Coordinator.)

LAWYERS LIABILITY REVIEW (Timeline Publishing Co., Inc.)
(Member of Advisory Board.)

Author, Proposed Amendment to N.J.S.A. 2A:13-4, endorsed by the
New Jersey State Bar Association and introduced into the NJ
Senate and Assembly (S-1925 & A-3063, March, 1997).

Wasserman, *The Circle Chevrolet Fallout Continues: Problems the
Supreme Court Did Not Solve*. 149 N.J.L.J. 320 (July 28, 1997).

Wasserman, *Expert Witnesses in the Legal Malpractice Case: The
New Jersey Experience* (reprinted from Understanding Legal
Malpractice - NJ Institute for Continuing Legal Education, Dec.
1997).

Wasserman, *Lawyer Malpractice: The Difference Between Life &
Death*, (Opinion & Commentary, N.J. Law Journal, June 26, 2000).

Wasserman et ano., *Legal Ethics: Getting Down to the Reason for the
Rule* (New Jersey Law Journal. N.J. Supreme Court Year in Review
1999-2000 - 9/4/00).

Wasserman et ano., *Legal Ethics: Making Things Clear* (New Jersey
Law Journal. N.J. Supreme Court Year in Review 2000-2001 -
9/3/2001).

Wasserman et ano., *Legal Ethics & Malpractice: Third Party Escrow
Funds, Entitled to Same Protection as Client Trust Funds*. (New
Jersey Law Journal. N.J. Supreme Court Year in Review, 2001-2002-
9/2/2002..

Wasserman et ano., *Legal Ethics & Malpractice: Court Reaffirms
American-Rule Exception to Enforce Fiduciary Duty* (New Jersey
Law Journal, N.J. Supreme Court Year in Review, 2002-2003.

Wasserman, *Legal Ethics & Malpractice: 'Suit Within A Suit is Not Required'*, (New Jersey Law Journal, The State Supreme Court Year in Review, 2003-2004).

Wasserman, *Legal Ethics & Malpractice: Advice on Asset Protection Could Land Lawyers in Hot Water* (New Jersey Law Journal, The State Supreme Court Year in Review, 2004-2005).

Wasserman, *Legal Ethics & Malpractice: Missing Evidence Prompts Negative Inference* (New Jersey Law Journal, The State Supreme Court Year in Review, 2005-2006).

Wasserman, *Professional Malpractice: Where Were the Lawyers?, Aiding and Abetting Breach of Fiduciary Duty*, (New Jersey Law Journal, January 22, 2007.)

Wasserman, *Own Up to Mistakes*, (New Jersey Law Journal, The State Supreme Court Year in Review, 2006-2007.)

Wasserman, *Professional Malpractice: Holding Lawyers Accountable for Bad Settlements*. (New Jersey Law Journal, January 21, 2008) Professional Malpractice Supplement, (lead article)

Wasserman, *Way to Cut Quality of Lawyering: Cut Deadline for Malpractice Suits*, New Jersey Law Journal, Commentary, April 28, 2008).

Wasserman et ano., *The Enormity of Our Fiduciary Duty*, New Jersey Law Journal, The Supreme Court Year in Review, Legal Ethics and Malpractice, 2007-2008).

Wasserman, *Decries State Bar's Support for Shortening Legal Malpractice Statute of Limitations*, New Jersey Law Journal, December 8, 2008, "Voice of the Bar" p.12-13.

Wasserman, et ano., *Professional Malpractice: Two Views of the Saffer Fee-Shifting Rule: There is a Professional Duty to Support the Rule*, New Jersey Law Journal, January 19, 2009) p. 1.

Wasserman, *The Professional Services Business Enhancement Act: Myths, Realities and Prospective Problems*, Report to Members of the New Jersey General Assembly and Senate, January 28, 2009.

Wasserman, *What if Bernie Madoff Were a New Jersey Lawyer?*, New Jersey Law Journal, Commentary, May 11, 2009, p. 23.

Wasserman, et ano. *At the Crossroad of Constitutionally Protected Free Speech and the Rules of Professional Conduct*, New Jersey Law Journal, Supreme Court Year in Review Sept. 7, 2009).

Wasserman, et ano., *Mandatory Legal Malpractice Insurance: The Time has Come*. New Jersey Law Journal, Professional Malpractice Supplement, January 14, 2010.

Wasserman, *What if Goldman Sachs Were a New Jersey Law Firm?*

New Jersey Law Journal, Commentary, May 17, 2010.

Wasserman, et ano. *Settle and Sue is Here to Stay*, New Jersey Law Journal, Supreme Court Year in Review, September 6, 2010).

Wasserman, et ano., *It is Reaffirmed: Entire Controversy Doctrine Does Not Bar a Subsequent Malpractice Action*. (New Jersey Law Journal, Supreme Court Year in Review, September 6, 2011).

Wasserman, et ano., *A Full Course Feast for the Law Governing Lawyers*. (New Jersey Law Journal, Supreme Court Year in Review, September 3, 2012).

Wasserman, *Recovering Damages in Legal Malpractice Cases*, (New Jersey Law Journal Professional Malpractice Supplement, January 21, 2013) (lead article).

Wasserman, *On Being an Expert Witness in Legal Malpractice Cases*, (N.J. Institute for Continuing Legal Education, March, 2013).

WORK IN PROGRESS:

LAWYER MALPRACTICE: Curriculum, Cases & Materials
<http://www.legalmalpracticelawreview.com/articles/law-school-1/>

Legal Malpractice Law Review: Research, Resources and Expertise in the Law Governing Lawyers
<http://www.legalmalpracticelawreview.com>.

EDUCATION:

Hofstra University School of Law, Hempstead, N.Y.
-- J.D. *cum laude*, 1974.
-- Hofstra Law Review, Articles Editor.
-- Dean's Citation for Excellence in Trial Advocacy.
-- Class Rank: 13th of 165.

Hunter College, New York City.
-- B.A., 1968.; M.A., 1971.

BAR ASSOCIATIONS:

Association of Professional Responsibility Lawyers (APRL); Defense Research Institute; American Association of Justice (AAJ); New Jersey Association for Justice (NJAJ); American Bar Association; Center for Professional Responsibility; New Jersey State Bar Association (Member, Malpractice Insurance Committee, 1992-to date; Member, Entire Controversy Committee 1996-97; NJSBA Delegate to the American Bar Association National Legal Malpractice Conference of the Standing Committee on Lawyers' Professional Liability 1994 -98); New York State Bar Association; Bergen County Bar Association; New York County Lawyer's Association (Lawyer's Professional Liability Committee); Professional Liability Underwriting Society.

MISCELLANEOUS:

--Designed "LAWYER MALPRACTICE" course curriculum for law school level at Hofstra University School of Law, Hempstead, New York and other law schools.

--Testified before the United States Senate, Subcommittee on Health (Edward M. Kennedy, Chairman), regarding the need for improvement in the law pertaining to the marketing of pharmaceutical products (1974).

--Interviewed by trade journals concerning developments in product liability law (e.g., Chemical Business, February 8, 1982.)

--Served on Bar Association Committees studying topics in law and medicine and multi-state practice of law.

--Lectured before Bar Association and community groups on trial advocacy and legal ethics.

--Guest lecturer on legal malpractice at:

- University of Liverpool (Cayman Island) Law School (1995, '96, '98, '99, 2002)

- Rutgers University School of Law (Newark, New Jersey, 1996)

-New York Law School (New York, N.Y., April, 2006).

--Lecturer & Panelist "Avoiding Malpractice", Continuing Legal Education Program, Bucks County (PA.) Bar Association (November 1995.)

--Co-Moderator & Panelist, "The Malpractice Explosion", Lexis Counsel Connect on-line seminary (November 1995.)

--Moderator, "Circle Chevrolet: Pitfalls of Legal Malpractice", Counsel Connect on-line seminary (April-May 1996). Reprinted in New Jersey Law Journal Supplement July 1, 1996.

--Faculty, "Ethical and Legal Malpractice Considerations in the Electronic Information Revolution, ATLA-NJ Education Foundation (January 1997).

--Faculty, "Understanding Legal Malpractice", N.J. Institute for Continuing Legal Education. Topic: "Expert Witnesses in the Legal Malpractice Case". (December, 1997).

--Lecture, "The Impact of the Entire Controversy Doctrine on Legal Malpractice" Bergen County Bar Association (9/12/96)

--Lecture, "The Entire Controversy Doctrine: How Wide and How Deep the Black Hole?" Bergen County Bar Association (10/24/96).

--Lecture, "Pitfalls of Legal Malpractice" Bergen County Bar Association (11/29/2001)

--Lecture & Panelist, "Practical Aspects of *Circle Chevrolet's* Impact Upon Legal Malpractice Claims", New Jersey State Bar Association, Annual Meeting, (5/16/97).

--Lecture & Panelist, "Ethics for Litigators and Trial Lawyers", Conflicts of Interest, New York State Bar Association, CLE (November 4 & 18, 2005).

--Lecture & Panelist, 8th Annual New Jersey Trust & Estate Law Forum, 2006, "A Word to the Wise: Keeping Current on Trust and Estate Legal Malpractice Trends and Issues". New Jersey Institute for Continuing Legal Education, Sept. 13, 2006.

--Lecture, "When Ethical Violations Become Malpractice" ATLA-NJ Meadowlands Seminar, October 21, 2007;

--Lecture, "Ethics Here, Ethics There, Ethics, Ethics Everywhere (NJ State Bar Association Public Utility Law Committee/NJ Institute of Continuing Legal Education, April 9, 2010);

--Panel Member, "Teaching Tomorrow's Lawyers to Avoid Legal Malpractice: A Roundtable Discussion (American Bar Association, National Legal Malpractice Conference, Washington, DC April 15, 2010).

--Panel Member & Presenter, "Is It Ethical"? (New Jersey Association for Justice, Meadowlands Seminar 2011, November 11, 2011).

--Lecturer, "Legal Malpractice: The Good, the Bad, the Future" (New Jersey Association for Justice, Meadowlands Seminar 2011, November 11, 2011).

--Lecturer, "Legal Ethics Violations and Legal Malpractice" (New Jersey Association for Justice, Meadowlands 2011, November 11, 2011).

--Lecturer and Panel Member, "Legal Ethics Update: 2012" (New Jersey Association for Justice, Meadowlands, 2012, November 16, 2012).

--Speaker, "2013 Legal Malpractice Update: Getting the Most out of your Expert". (N.J. Institute for Continuing Legal Education, March 16, 2013)

--Presenter, "Legal Malpractice: Getting the Most out of Your Expert Witness" (American Board of Professional Liability Attorneys, Annual Meeting, 2013, New Orleans, LA, April 26, 2013).

--Featured in Forbes Magazine, May 22, 2006 (On the Docket: "Getting Theirs")

--Appeared on radio talk shows with Barry Farber and television documentaries with Geraldo Rivera concerning cases of public interest relating to tort law.

--Received newspaper coverage on numerous matters being actively litigated in the courts.

--On-going participation in continuing legal and alternate dispute resolution education courses.

--Founded the Multi-State Bar Association, an organization seeking to foster the growth of the multi-state practice of law.

--Awarded "Distinguished Alumni Medal" Hofstra University Law School, June 1985.

--Personal interest in environmental law, municipal finance, municipal bonds, securities and bank fraud and related legal and investment issues.

--Real Estate Broker, State of New York (Lic. # 691079).

REFERENCES:

--Upon request.