



## Michelle M. Bufano

Partner

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Michelle Bufano is a Partner at the Firm, with the majority of her practice focused on the area of products and other tort liability.

### **Products Liability Litigation Experience**

Ms. Bufano has represented pharmaceutical and medical device companies in complex products liability and mass tort litigation for over 20 years, including class actions, multi-district litigations and coordinated proceedings in state courts. She has represented clients in litigations involving prescription and over-the-counter drugs, as well as a wide range of medical devices, including catheters, feeding tubes, as well as hip and knee implants. She also has defended companies with respect to litigations involving a variety of consumer products. In addition, Ms. Bufano has significant experience in complex commercial litigation, having represented clients in a variety of breach of contract contexts and other business disputes.

### **Products and Other Tort Liability Counseling Experience**

Ms. Bufano leverages her extensive products liability litigation experience to also counsel clients on various issues relating to tort liability. She has experience advising of potential tort liabilities and risks in connection with the due diligence process for corporate purchasers. She also counsel hedge funds and other potential investors with respect to potential tort issues regarding target acquisitions.

Additionally, Ms. Bufano counsels clients on potential tort liabilities relating to content-based materials, particularly within the regulatory context. She also advises foreign corporations on potential regulatory issues, including those relating to food products that are subject to the jurisdiction of the U.S. Food and Drug Administration.

Following law school, Ms. Bufano served as a law clerk to the Honorable Martin L. Greenberg in New Jersey Superior Court.

### **Education**

- Seton Hall University School of Law (J.D., 1997)
  - Member, *Seton Hall Law Review*
- Wellesley College (B.A., *cum laude*, 1993)

### **Admissions**

- U.S District Court, Southern District of New York

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- U.S District Court, Eastern District of New York
- U.S. District Court, District of New Jersey
- New York
- New Jersey

## Professional Activities

MEMBERSHIPS: American Bar Association (Vice-Chair of Section of Science & Technology Law Committee, *Biotechnology, Healthcare Technology, and Medical Devices (BHTMD) Committee* (2019-2020); New Jersey State Bar Association; The Foundation of the International Association of Defense Counsel (Member); Defense Research Institute (Drug and Medical Device Committee); New Jersey Civil Justice Institute (Legal Advisory Board); *Law Journal News Product Liability Law & Strategy Newsletter* (Member, Board of Editors, 2008 through 2017); National Trial Advocacy College, University of Virginia School of Law (Graduate, 2001); William J. Brennan, Jr. Inn of Court (Graduate, 1999-2001)

HONORS: Recognized in *New Jersey* and *New York Super Lawyers* in the area of Class Action/Mass Torts; Previously selected for the *New Jersey Law Journal's* "40 Under 40" series; Recipient, Project for Attorney Retention, Work-Life Balance Award (2009)

## Speaking Engagements

- Presenter, "In the Aftermath of Albrecht: Implications of the Supreme Court's Ruling on Preemption for Pharmaceutical Products Liability Litigation," American Conference Institute's 24<sup>th</sup> Annual Conference on Drug & Medical Device Litigation Conference (December 10, 2019)
- Co-Presenter, "Deposition Toolkit," American Bar Association's 2019 Environmental & Energy, Mass Torts and Products Liability Committees' Joint CLE Seminar (January 11, 2019)
- Co-Presenter, "Predicting Risk and Examining the Intersection of Traditional Principles of Product Liability Laws with Digital Health and 3D Printing," American Conference Institute's 23<sup>rd</sup> Annual Conference on Drug & Medical Device Litigation (November 29, 2018)
- Co-Presenter, "Products Liability and the Internet of Things," Bloomberg Webinar (September 13, 2018)
- Co-Presenter, "NJ Supreme Court: Landmark Decision on Standards for Expert Testimony," New Jersey Civil Justice Institute Policy Teleforum (August 1, 2018)
- Presenter, "Revisiting the Role of the Learned Intermediary Doctrine," New Jersey Defense Association & Association of Corporate Counsel New Jersey's *2016 Products Liability Seminar: Something for Everyone - A Look at Hot Products Topics in the Early 21st Century* (September 23, 2016)

## Publications

- "Assessing Potential Risk: Due Diligence for Acquisition of Product Manufacturers," *New Jersey Law Journal* (December 11, 2019)
- "What New Calif. Law Means For Connected Medical Devices," *Law360* (October 5, 2018)
- "'Accutane' Appeal Presents Opportunity for NJ to Adopt 'Daubert'," *New Jersey Law Journal* (December 11, 2017)
- "NJ Supreme Court Takes Us Back in Time on Tort Statute of Limitations," *New Jersey Law Journal* (February 20, 2017)
- "Product Liability & Toxic Tort Litigation: Recent 'Reglan' Decision Chips Away at Preemption," *New Jersey Law Journal* (December 12, 2016)

- "The Foreign Plaintiff Problem," Bloomberg BNA's *Product Safety & Liability Reporter* (December 5, 2016)
- "Getting Serious About Senseless Claims," *New Jersey Law Journal* (December 9, 2015)
- "New Limitations on The Discovery Rule in Products Liability Cases," *New Jersey Law Journal* (December 17, 2012)
- "Irreconcilable Differences in Prescription Drug Liability Cases," *New Jersey Law Journal* (December 12, 2011)
- "Applying the Doctrine of Forum Non Conveniens to Out-of-State Plaintiffs in Mass Tort Cases," *New Jersey Law Journal* (November 22, 2012)
- "The Importance of the Early Disposition of Baseless Claims in New Jersey Products Liability Mass Tort Litigation," *New Jersey Lawyer* (August 2011)
- "Practice Tip: Keys to Successful Negotiation of Clinical Trial Agreements," *LJN's Product Liability Law & Strategy* (December 2009)
- "Avoiding Dysfunctional Litigation," *LJN's Product Liability Law & Strategy* (April 2009)
- "Fight For Your Right To Ex Parte," *New Jersey Law Journal* (December 8, 2009)
- "Medical Device Manufacturers Can Breathe Easier," *New Jersey Law Journal* (December 15, 2008)
- "Hope at Last for Drug Manufacturers Sued in NJ?" *Law360* (November 24, 2008)
- "The Learned Intermediary Doctrine," *LJN's Product Liability Law & Strategy* (August 2008)
- "The Foreign Plaintiff," *New Jersey Law Journal* (December 17, 2007)

## In the Media

*Law360*, [Product Liability Legislation and Regulation to Watch](#) (January 1, 2020)

*Law360*, [5 Times Justice Stevens Impacted Product Liability Law](#) (July 17, 2019)

*Law360*, [Justices Lay Out Failure To Warn 'Clear Evidence' Standard](#) (May 21, 2019)

*BioWorld*, [Supreme Court: Preemption for Judges to Decide, Not Juries](#) (May 20, 2019)

*BioCentury*, [Supreme Court May Reset FDA-State Power Balance](#) (January 11, 2019)

*Law.com*, [Critical Mass: SCOTUS Looks at Preemption in Drug Labeling Case. Plus, Fee Dispute Roils Hip Implant MDL](#) (January 9, 2018)

*Law360*, [FDA Understood Proposed Fosamax Warnings, Justices Told](#) (January 7, 2019)

*The Pink Sheet*, [Product Liability Defense Favored By Industry Appears To Have Supreme Court Support](#) (January 7, 2019)

*BioWorld*, [SCOTUS mulls drug company responsibility when FDA says no to label change](#) (January 7, 2019)

*Bloomberg Law*, [Merck, U.S. to Tell Justices FDA Action Bars Fosamax Suits](#) (January 3, 2019)

*Law360*, [Product Liability Cases To Watch In 2019](#) (January 1, 2019)

*Law360*, [Top Product Liability Cases Of 2018](#) (December 13, 2018)

*Law360*, [Accutane Ruling Raises Bar For Garden State Labeling Claims](#) (October 5, 2018)

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*Stat News*, [Once again, a New Jersey court gives pharma a boost in lawsuits filed by consumers](#) (October 4, 2018)

*Bloomberg Law*, [Hoffmann-LaRoche Wins N.J. Accutane Warning Appeal](#) (October 3, 2018)

*Law360*, [NJ Accutane Ruling Raises Bar For Expert Witnesses](#) (August 2, 2018)