

Scott L. Haworth
Partner, New York, New York

Product Liability
 Specialty/Complex Torts
 Construction



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Current Scope of Practice

Scott L. Haworth, a litigator and trial attorney, has successfully resolved a wide variety of matters involving products liability, construction and intentional torts, as well as complex catastrophic injury matters involving fire, transportation and other accident modes. Prior to joining Sedgwick, Mr. Haworth was a partner at another prominent New York litigation firm.

Mr. Haworth's practice spans the state and federal courts of New York and New Jersey. His clients include self-insured manufacturers of industrial machinery, heavy equipment, recreational and children's products as well as those in the construction and telecom industries. Mr. Haworth is also frequently retained by third-party administrators and insurance carriers on both the primary and excess levels.

Litigation Matters

Notable Trials

- *Plaintiff v. National Telecom Company* – United States District Court, Southern District of New York. Plaintiff suffered severe injuries as the result of an accident in New York's Penn Station. The railroad owning Penn Station contended that the dangerous condition resulted from the telecom companies installation of its wireless facilities in Penn Station. Plaintiff obtained a \$4.2 million verdict against the railroad; Mr. Haworth obtained a defense verdict on behalf of his client. The railroad's indemnity claim failed as well.

- *Plaintiff v. Crane Company* – Superior Court, Hudson County. Product liability matter involving a crane accident resulting in catastrophic injuries to the crane operator. Plaintiff was injured when the crane’s boom collapsed and landed on his head as he attempted to erect the crane’s jib. Plaintiff’s liability expert contended the crane had been improperly designed and opined as to several alternative designs that he claimed would have prevented the accident. Mr. Haworth successfully argued in favor of a hearing to determine the reliability and admissibility of the expert’s opinions. Following the hearing outside of the jury’s presence, several of the opinions were precluded as unreliable. Plaintiff’s “non-negotiable” pre-trial demand was \$5 million. This decreased to \$1.5 million during plaintiff’s 2 days of testimony. Several weeks into trial, the case was settled for \$325,000, less than the amount of the workers’ compensation lien.
- *Plaintiff v. Residential Apartment Complex* – Supreme Court, Queens County. Negligent security matter involving security officers at large apartment complex located in Queens, New York. Plaintiff alleged she was beaten and falsely imprisoned by security personnel, resulting in severe psychiatric and other injuries. Based largely upon documents obtained through aggressive investigation and cross-examination at trial, Mr. Haworth obtained a defense verdict.
- *Plaintiff v. Steel Co.* – Superior Court, Burlington County. Mr. Haworth’s client was constructing a bridge in New Jersey, when the barge upon which the bridge was being constructed tipped, allegedly rendering useless, utility cables located on the creek bed, utilized to supply electric power to Southern New Jersey. Following jury selection and cross-examination of multiple witnesses, the case was resolved for a percentage of the cost of the repair and replacement of the electrical cables.
- *Plaintiff v. Roofing Manufacturer* – Superior Court, Hunterdon County. Product liability matter involving a roof hatch manufactured by Mr. Haworth’s client. Plaintiff construction worker fell through the roof hatch landing on a concrete floor approximately 15 feet below, resulting in severe leg and closed head injuries. Plaintiff alleged the hatch was defectively designed, resulting in a grip detaching as plaintiff attempted to close the hatch while standing on a mounted ladder below. Mr. Haworth utilized a videotaped accident reconstruction produced at the client’s premises to demonstrate that the accident could not have occurred as claimed, and impeached plaintiff and his expert engineer on this basis. The case settled for \$50,000 following several days of trial, substantially less than the amount of the workers’ compensation lien, leaving plaintiff with a minimal recovery and saving Mr. Haworth’s client substantial expense.
- *Plaintiff v. Industrial Door Manufacturer* – Superior Court, Ocean County. Product liability matter involving an industrial floor door installed at a water treatment facility. Plaintiff fell through the floor door while hoisting heavy machinery from an equipment vault, 12 feet below. He landed on his head, resulting in catastrophic closed head, orthopedic and other injuries as well as a permanent inability to work. Plaintiff contended the floor was improperly designed in that it lacked the fall protection required by various ANSI standards and OSHA regulations. The case settled following openings for \$275,000, less than the workers’ compensation lien.

- *Plaintiff v. Agricultural Machinery Manufacturer* – Supreme Court, Kings County. Product liability matter involving an industrial cabbage coring machine accident resulting in finger amputation. Plaintiff claimed permanent inability to work. Pre-trial demand was \$1.5 million. Third-party defendant employer paid in excess of \$325,000 at close of plaintiff’s case, by which time all but the defendant’s expert engineer had testified. Mr. Haworth moved for a directed verdict based upon the “product alteration” doctrine as set forth in *Robinson v. Reed-Prentice*. Based upon the court’s admonition that the motion would be granted if plaintiff did not accept defendant’s standing settlement offer of \$50,000, the case was settled in that amount.
- *Plaintiff v. Clothing Manufacturer* – Supreme Court, New York County. Product liability flammable fabric matter involving adult women’s pajamas. Plaintiff sustained catastrophic burns covering 55% of her body. Many of the burns were categorized as 4th degree, resulting in exposed bone. Several weeks into a lengthy trial, the client’s insurer negotiated a hi-low agreement of \$500,000/\$1,750,000, both figures being well below the sustainable verdict value for this gruesome injury. Over objection, the court crafted a complex jury questionnaire, resulting in an inconsistent verdict that the defendant was negligent but did *not* manufacture a defective product. The verdict was \$1.3 million, despite nearly \$1 million in medical special damages and an undisputed complete inability to continue work as a nursing aide.
- *Plaintiff v. Gardening Product Manufacturer* – United States District Court, Southern District of New York. Product liability matter involving a commercial lawn mower accident, resulting in multiple finger amputations. Plaintiff’s liability expert opined as to design defect. The case resulted in a defense verdict.

Notable Non-Trial Results

- *Plaintiff v. Discount Retailer* – New York Appellate Division, 1st Department on appeal from Supreme Court, New York County. Product liability matter involving an infant plaintiff who sustained severe eye trauma while utilizing a toy sold to retailer by the co-defendant distributor, located in Hong Kong. Based upon the obligation of an upstream seller or manufacturer to defend and indemnify the downstream seller, a summary judgment motion was filed. The trial court’s denial of the motion was reversed following oral argument in which Mr. Haworth argued on behalf of defendant.
- *Plaintiff v. Walker Manufacturer* – U.S. District Court, Southern District of New York. Product liability matter involving a walker alleged to have fractured from metallurgical failure. Mr. Haworth successfully obtained summary judgment based upon the unreliability of the proffered testimony of plaintiff’s liability expert, a nationally-known metallurgical engineer.
- *Plaintiff v. Hotel Operator* – Supreme Court, New York County. Labor Law matter involving a chandelier that fell while being erected during set-up for a wedding at hotel. Plaintiff claimed severe closed head, psychiatric and orthopedic injuries. Summary judgment was granted on behalf of the defendant hotel and premises owner only, based upon lack of control and failure of plaintiff to satisfy the requirements for imposition of liability under Labor Law §240.

- *Plaintiff v. Apartment Complex* – Superior Court, Middlesex County. Stove-tip case involving catastrophic burns to an 18 month old child. Mr. Haworth was retained by the excess insurer (in excess of \$250,000) two weeks prior to the close of discovery. Mr. Haworth successfully obtained all necessary extensions to depose all fact witnesses, retain an expert and produce a videotaped reconstruction that disproved plaintiff's theory as to how the accident occurred. On the eve of trial, plaintiff accepted a long-since-offered, \$235,000 settlement, within the primary policy limits. At the time of Mr. Haworth's retention, plaintiff's settlement demand was \$3.5 million.
- *Plaintiff v. Wheelchair Manufacturer* – Supreme Court, Kings County. Product liability matter involving a motorized wheelchair. Plaintiff and third-party plaintiff contended the wheelchair was improperly designed, causing it to flip-over backwards while being utilized by a disabled person. Summary judgment granted at close of discovery. Appeal discontinued following refusal on the part of Mr. Haworth's client to settle prior to perfection.
- *Plaintiff v. Medical Product Company* – Supreme Court, Bronx County. Product liability/medical malpractice matter involving a medical bed. Following depositions of plaintiff, multiple eyewitnesses, personnel from the defendant dealer/installer and defendant, obtained voluntary dismissal. Case was ultimately settled by both co-defendants.
- *Plaintiff v. Bucket Truck Manufacturer* – United States District Court, Southern District of New York.. Product liability matter involving fall from a bucket truck, resulting in severe orthopedic injuries. Took over case near close of discovery from a "white shoe" firm. Obtained necessary time extensions from the court, retained a liability expert and inspected the product in conjunction with defendant's personnel. Plaintiff's demand at mediation was in the "seven-figure" range, resulting in no settlement. Thereafter, deposed plaintiff's expert engineer and successfully moved for summary judgment, resulting in one of the oft-cited District Court opinions examining the proper bases for exclusion of unreliable expert testimony under *Daubert* and *Kumho Tire*.
- *Plaintiff v. Crane Rental Company* – Superior Court, Union County. Plaintiff construction worker sustained catastrophic injuries when he was crushed between a precast concrete plank and an I-beam. Mr. Haworth represented the crane company and crane operator, alleged to have negligently lowered the precast plank into the building's superstructure. Through deposition of plaintiff's expert engineer, Mr. Haworth established the unreliability and "net" nature of plaintiff's expert's opinions and obtained summary judgment, which was upheld on appeal. The remaining defendants – who refused to join in the motion, paid a substantial settlement on the eve of trial.
- *Plaintiff v. Wheelchair Manufacturer* – Supreme Court, Richmond County. Plaintiff nursing home resident alleged design defect of a motorized wheelchair. Summary judgment granted to defendant only, based upon unreliability and inadmissible nature of plaintiff's expert's opinion.

- *Plaintiff v. Roofing Company* – Superior Court, Bergen County. Product liability wrongful death matter involving industrial HVAC worker who fell approximately 23 feet while attempting to utilize a roof hatch to gain access to the roof. Plaintiff claimed the hatch was defectively designed, resulting in awkward movement on the part of the decedent as he attempted to exit the hatch. Utilizing computerized reconstruction analysis, Mr. Haworth demonstrated that the accident could not have occurred as theorized by the plaintiff, relieving Mr. Haworth’s client of any potential liability. Shortly prior to trial, plaintiff provided a voluntary dismissal and went on to utilize the liability expert retained by Mr. Haworth in aid of his case against the other defendants.
- *Plaintiff v. Envelope Company* – Superior Court, Union County. Product liability matter involving an envelope manufacturing machine accident resulting in the traumatic amputation of plaintiff’s dominant arm. Plaintiff sought to recover against her employer, Mr. Haworth’s client, based upon the “intentional wrong” doctrine which permits a plaintiff to recover against their employer where the employer’s actions result in a “substantial certainty” of injury. Notwithstanding the employer’s alteration of the machine in a manner which permitted the accident to occur, summary judgment was granted and upheld on appeal.
- *Plaintiff v. Industrial Machinery Manufacturer* – United States District Court, Eastern District of New York.. Product liability matter involving multiple finger amputations to dominant hand resulting from a punch press accident. Case settled for \$7,500 during pendency of summary judgment motion. Motion followed deposition of plaintiff’s expert which focused on expert’s inability to proffer reliable opinion as to a causally-related failure to guard and the manufacturer’s compliance with the ANSI B15 standard.

Affiliations, Activities and Accomplishments

Mr. Haworth is admitted to practice in New York and New Jersey and before the U.S. District Court for the Southern, Eastern and Western Districts of New York and the District of New Jersey.

Mr. Haworth is Vice Chairman of the New York State Bar Association Torts, Insurance, and Compensation Law Section’s Substantive Product Liability Committee and is past Chairman of the New York State Bar Association’s Continuing Legal Education Committee on Product Liability. He is Chairman of the Defense Research Institute Product Liability Committee’s Food Law Specialized Litigation Group and is a Member of the Defense Research Institute Food Law Practice Group’s Steering Committee. He is also a member of the International Association of Defense Counsel. Additionally, he is Vice Chairman of the firm’s Specialty & Catastrophic Tort Practice Group.

Mr. Haworth received an award for “Attorney of the Year” from a major medical device manufacturer in 2004 and again, in 2006.

Presentations and Publications

Mr. Haworth frequently lectures and writes on litigation topics. His presentations and publications include:

- “Appellate Division Rejects Restaurant Worker's Failure to Warn and Design Defect Claims Against the Manufacturer of a Drain Opener,” Sedgwick’s *Product Liability Advisory* (March 2010);

- “Food Law Liability, Plaintiff’s Opening Statement,” presented at the Defense Research Institute’s Food Law Seminar, Chicago, IL (May, 2008);
- “Defending Medical Device Fire Cases,” presented at the Defense Research Institute’s Fire and Casualty Seminar, Chicago, IL (November 2005);
- “Product Liability: Great Cases Revisited,” New York State Bar Association statewide presentation (also served as event’s statewide chairman), New York, Buffalo, Albany and Uniondale, NY (October/November 2004);
- “The Law of Spoliation,” presented at the Defense Research Institute’s Product Liability Seminar, Las Vegas, NV (February 2003);
- “Active Use of the Spoliation Defense,” *For the Defense*, published by the Defense Research Institute (June 2003); and
- “Tort Law Update,” *Syracuse Law Review* (2002, 2003, 2004).

Education

Mr. Haworth received a J.D. (1993) from the New York University School of Law and a B.A. (1990), with honors, from the State University of New York at Binghamton. He is a member of Phi Beta Kappa.