



Loly Garcia Tor

Partner

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OVERVIEW

Loly Tor's practice focuses on complex civil litigation, arbitration, and appellate practice throughout the United States, primarily in the areas of construction and real estate litigation, commercial disputes, product liability, and the defense of consumer protection claims. These practices include UCC Article 2 disputes as well as filing and challenging mechanic's liens. She represents clients across several industries, including property owners, real estate developers, general contractors, construction managers, and manufacturers and retailers of consumer and building products. Loly also has significant experience defending class actions related to allegations of consumer fraud, breach of warranty, allegedly defective consumer and building products, allegedly deceptive product labels, and personal injury. Because of her experience in federal court, Loly often acts as local counsel in New Jersey and New York federal courts in a wide variety of matters.

In 2020, Loly was chosen as a Leadership Council on Legal Diversity Fellow. Loly was recognized as one of New Jersey's "New Leaders of the Bar" by the New Jersey Law Journal for 2014. She is also a Leadership in Energy and Environmental Design Accredited Professional (LEED®-AP). Additionally, Loly was recognized repeatedly in the New Jersey Rising Stars list.

Loly is committed to diversity and inclusion and serves on the K&L Gates firmwide diversity committee. She also actively participates in the K&L Gates pro-bono program.

PROFESSIONAL BACKGROUND

Prior to joining K&L Gates, Loly was a law clerk for the Honorable Erminie L. Conley, P.J.A.D., of the New Jersey Superior Court, Appellate Division. She was also an associate in the litigation practice group of a major New Jersey law firm. During law school, Loly interned with the Honorable Garrett E. Brown, Jr., of the United States District Court for the District of New Jersey, and with the Office of the Massachusetts Attorney General, Environmental Protection Division.

PROFESSIONAL / CIVIC ACTIVITIES

- New Jersey Women Lawyers Association, Co-Chief Operating Officer (current); Co-Secretary (2020-2022)

- John C. Lifland American Inn of Court
- District VA Ethics Committee, Chair (current); Vice Chair (2021-2022)
- Association of the Federal Bar of New Jersey
- Hispanic National Bar Association
- The Company of Dance Arts, Trustee

SPEAKING ENGAGEMENTS

- “The Surfside Disaster- A Case Study of Building Collapses”, NJ ICLE, October 2021
- “5 Effective Ways to Manage the Crisis that Derives from a Product Gone Wrong,” *Corporate Counsel for Women of Color and K&L Gates LLP 14th Annual Career Strategies Conference*, October 2018
- “Consumer Litigation: The Year in Review and the Years to Come - What to Expect in Consumer Litigation Under the Trump Presidency,” K&L Gates HUB Webinar, January 2017.
- “The Evolving Nature of Class Actions in New Jersey,” *New Jersey State Bar Association 2016 Annual Meeting and Convention*, May 19, 2016.
- “New Jersey Law Update: Are Your Arbitration Provisions Enforceable?,” *Association of Corporate Counsel New Jersey CLE program*, April 21, 2015.
- “Timing Issues: Statute of Limitations,” *Construction Law 2014: Handling the Construction Defect Case, NJICLE*, June 4, 2014.
- “Warranties and Construction Contracts,” *Construction Law 2012: Tackling Contract Provisions and Insurance Issues, NJICLE*, June 2012.
- “Mold Litigation,” *NJICLE Hot Topics in Real Estate Law*, September 2011.
- “How to Market Green Buildings and Materials: Complying with Applicable Green Standards and Laws,” 2010 International Builders' Show, January 2010.
- “Green Building Products: Can They Perform as Promised,” 2009 International Builders' Show, January 2009.

EDUCATION

- J.D., Boston University School of Law, 2004 (*magna cum laude*; *Senior Articles Editor, Boston University Law Review*)
- B.A., Seton Hall University, 2001 (*summa cum laude*)

ADMISSIONS

- Bar of New Jersey

- Bar of New York
- Bar of Pennsylvania
- Supreme Court of the United States
- United States Court of Appeals for the Fourth Circuit
- United States Court of Appeals for the Third Circuit
- United States District Court for the District of New Jersey
- United States District Court for the Eastern District of New York
- United States District Court for the Northern District of New York
- United States District Court for the Southern District of New York
- United States District Court for the Western District of Pennsylvania

THOUGHT LEADERSHIP *POWERED BY HUB*

- 8 January 2024, "Right to Repair" Law Requires Manufacturers to Give Up the Fix in New York
- 1 August 2023, Litigation Minute: What Types of PFAS Claims Are Being Filed?
- 23 February 2023, Specific Language Not Required in New Jersey Arbitration Agreements Between Sophisticated Parties
- July 2022, July 2022 Accolades
- 18 May 2022, New Jersey Legislature Amends Statute of Limitations for Defect Claims Brought by Condominium and Homeowners' Associations
- 11 November 2020, Congratulations to Our Diverse and Women Lawyers
- July 2020, July 2020 Accolades
- 15 May 2020, COVID-19: Update – What You Need to Know As New Jersey and New York Construction Projects Begin to Reopen
- 10 April 2020, COVID-19: Update – New Jersey and New York Executive Orders' Impact on Construction Projects
- 30 March 2020, COVID-19: Update – New Jersey and New York Executive Orders' Impact on Construction Projects
- 19 April 2018, The New Jersey Supreme Court Deals a Significant Blow to TCCWNA Claims
- 14 November 2017, New Jersey Supreme Court Rejects Class Certification of TCCWNA Claims in Drink Price Actions

- 28 June 2017, New Jersey Supreme Court to Consider Key TCCWNA Issues
- 25 October 2016, No Harm, No Foul: Lack of Concrete Injury Dooms Two Separate Actions Based on the Truth in Consumer Contract Warranty and Notice Act
- 4 October 2016, Spokeo Impact Remains to be Seen as Lawsuits Over N.J. Law Advance
- 26 September 2016, The New Jersey Appellate Division Confirms that TCCWNA Applies Only to “Consumers”
- 10 May 2016, The New Jersey Truth-In-Consumer Contract Warranty and Notice Act: What You Need to Know About “TCCWNA” and the Rise in Consumer Class Actions
- 18 April 2016, Untangling the *Webb* of Arbitrability: The Fourth Circuit Holds That Courts Determine the Availability of Class-Wide Arbitration
- 8 February 2016, “Who Decides” Whether Class Arbitration Is Available?: The Third Circuit Provides New Guidance in *Chesapeake Appalachia, LLC v. Scout Petroleum, LLC*

OTHER PUBLICATIONS

- “New Jersey Legislature Amends Statute of Limitations for Defect Claims Brought by Condominium and Homeowners' Associations,” *Real Estate Finance Journal*, Fall 2022
- “NJ Consumer Contract Act Questions May Soon Get Answers,” *Law360*, 22 November 2019
- “New Jersey Eyes Regulation of Biometric Data,” *New Jersey Law Journal*, 27 June 2019
- “Why NJ Supreme Court OK'd Allotting Fault To Phantom Foes,” *Law360*, 3 May 2018
- “State Class Actions: Practice and Procedure, Second Edition,” *Aspen Publishers*, 2013, 2014, and 2015 Updates for New Jersey.
- “The Many Perils of Going Green,” *Construction Law, Connecticut Law Tribune*, July 2008.
- “Climate Change and the D&O Pollution Exclusion,” 41 *Tort Trial & Ins. L.J.* 1033, Summer 2006.
- “Mandating Exclusion for Violations of the Knock and Announce Rule,” 83 *B.U. L. Rev.* 853, January 2003.

NEWS & EVENTS

- 18 August 2022, More Than 350 K&L Gates Lawyers Named Among 2023 Best Lawyers in America, Ones to Watch
- 2 November 2020, Numerous K&L Gates Diverse and Women Lawyers Recognized for Leadership and Legal Accomplishments
- 19 February 2020, K&L Gates Newark Partner Chosen as 2020 Leadership Council on Legal Diversity Fellow
- 17 February 2016, K&L Gates Names 50 New Partners

AREAS OF FOCUS

- Product Liability
- Appellate Litigation
- Class Action Litigation Defense
- Commercial Disputes
- Construction and Infrastructure
- Construction and Infrastructure Dispute Resolution
- Consumer Product Safety
- Insurance Recovery and Counseling
- Real Estate Litigation

INDUSTRIES

- Advertising and Marketing
- Artificial Intelligence
- Consumer Products
- Food and Beverage
- Manufacturing
- Technology

REPRESENTATIVE EXPERIENCE

- Representation of a window manufacturer in 18 class actions consolidated in a federal multi-district litigation based on allegations of breach of warranty, consumer fraud, and other claims relating to allegedly defective windows.
- Representation of retailer in state-wide putative class action based on allegations of consumer fraud and breach of warranty relating to representations on product labels regarding the product's content.
- Representation of retailer in threatened putative class action based on allegations of false advertising based on percentage of plant content in product.
- Representation of packager of oral contraceptives in 13 individual actions, 3 class actions, and a mass action involving 113 plaintiffs asserting personal injury claims allegedly caused by mispackaged pill packets.

- Representation of manufacturer and distributor of hair care device in putative class action based on allegations of consumer fraud, breach of warranty, strict liability, negligence, and other claims based on alleged exposure to risk of injury from device.
- Representation of a dishwasher manufacturer in nationwide and state-based putative class actions based on allegations of breach of warranty, consumer fraud, and other claims relating to allegedly defective dishwashers.
- Representation of public utility in litigation with manufacturer and supplier of meters regarding breach of contract and breach of warranty in manufacturing and supplying defective meters and to recoup costs from supplier for costs incurred to replace meters.
- Representation of retailers in putative class actions based on alleged violations of the New Jersey Truth-in-Consumer Contract, Warranty and Notice Act (TCCWNA).
- Representation of owner/developer of mid-rise building located in Manhattan with respect to action pending in New York state court asserting claims against architect for breach of contract and professional malpractice for errors and omissions in the design of, among other things, windows, bathrooms, stairwells, and mechanical systems, resulting in over \$8 million in construction-related damages.
- Representation of construction manager for construction of new building in Manhattan with respect to claims by project developer for breach of contract relating to allegations of construction defects allegedly resulting in damages exceeding \$19 million and with respect to claims against same project developer to foreclose on \$5 million mechanic's lien.
- Representation of construction manager in action in New York state court where project owner seeks damages of over \$9 million for alleged construction defects, construction manager's alleged failure to meet timelines set forth in contract, and construction manager's allegedly improper termination of contract.
- Representation of licensee of commercial property in dispute with property owner and licensor regarding proper distribution of funds to be paid to owner through eminent domain proceedings.
- Representation of manufacturer and installer of automated warehousing system in filing and enforcing \$6 million mechanic's lien.
- Representation of developer of eight-building condominium development with respect to litigation based on allegations of construction and design deficiencies, including alleged structural failures, and consumer fraud.
- Representation of developer in suit brought by master association for three individual condominium projects with respect to litigation based on allegations of financial irregularities and construction defects.
- Creation of residential warranty program for national home builder for use in new construction throughout the United States.
- Representation of client in action based on breach of contract, fraud, and negligence related to the collapse of a road.

- Representation of owners, general contractors, construction managers, and suppliers with respect to mechanic's liens issues in New Jersey and New York.
- Representation of HVAC manufacturer in litigation by homeowners based on alleged personal injuries caused by exposure to mold.
- Representation of retailer in state-wide putative class action based on allegations of consumer fraud and breach of warranty relating to representations on product labels.
- Representation of a retailer in a state-wide putative class action based on allegations of consumer fraud, breach of warranty, and unjust enrichment relating to the sale of motor oil.
- Representation of boiler manufacturer in litigation based on property damage caused by fire alleged to have been caused by boiler
- Representation of university in dispute arising from breach of license agreement relating to the licensing of intellectual property.
- Representation of bathroom fan manufacturer in litigation based on property damage caused by fires alleged to have been caused by bathroom fans.
- Representation of HVAC manufacturer in litigation by building owners based on alleged property damage caused by mold.
- Representation of public utility in litigation with manufacturer and supplier of meters regarding breach of contract and breach of warranty in manufacturing and supplying defective meters.