



Law & Liability

2nd Edition

A compilation of
Risk Management
Articles

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INTRODUCTION

The elevator industry has traditionally provided the safest form of public transportation, carrying people more miles without incident or accident than automobiles, buses, trains, aircraft or ships.

Even so, “accidents will happen,” and when they do occur, it is the responsibility of management, investigators, risk management and legal specialists to determine “what really did happen.” With life and limb often involved, all cooperate to unearth the true facts of an unfortunate event.

It is important for industry members to be fully aware of the intricacies of legal action and become familiar with situations previously experienced in the field. Accidents, by their very nature, result from a complex chain of random events – many difficult to totally guard against and some a one time occurrence.

If investigation and litigation bear out that an elevator company has been at fault, its training programs and policies are reviewed and improved. In such cases, the advice of a risk management specialist is often sought.

Sometimes, injuries are imagined or are an opportunist’s deliberate attempt to portray an accident for monetary gain. In those cases, the elevator company and its legal counsel must rely upon maintenance records and informative depositions to assure proper understanding by judge and jury.

The success of, and continual requests to update, *Court Cases of Consequence* has prompted ELEVATOR WORLD to publish *Elevator Industry Law and Liability: Including Court Cases of Consequence* – a compilation of articles dealing with litigation and risk assessment in regard to elevator and escalator equipment design, installation and maintenance. The new edition contains articles previously published in ELEVATOR WORLD’s “Law and Liability” column, as well as the now out-of-print *Court Cases of Consequence*. An expanded index is included for easy reference.

In assessing liability, litigants heavily rely on precedent and proper case preparation. This 300-page book was developed to enumerate cases which have been adjudicated – describing specific accidents, subsequent judgements, deposition development and preparation.

During the period 1961-1982, ELEVATOR WORLD first published the writings of Consultant John Miller in the “Court Cases of Consequence” column. Later, various attorneys authored articles concerning risk management, investigations, depositions and courtroom involvement. In recent years, Robert R. Fischer, Sr., a veteran risk management specialist, has prepared court case records for the “Law and Liability” column. *Elevator Industry Law and Liability: Including Court Cases of Consequence* contains over 30 years of experience provided by ELEVATOR WORLD authors, who have specialized in the legal field as it relates to equipment design, installation, maintenance and business management within the elevator industry.

Although many inspectors and consultants will wish to own this book, company managers are likely to benefit most from having this compilation in their library.

William C. Sturgeon, Founder of Elevator World

Publisher’s Note: *The specific cases referenced in this text are often presented in the form of a brief description of the events that transpired, or a synopsis of the actual case ruling. These reports have been provided to ELEVATOR WORLD by the authors of the articles. In many cases, the name of the company, individuals involved and locale were omitted by the authors. Parties interested in specific cases presented, relating to a particular incident or area of concern, are cautioned to obtain the actual case records and judicial rulings. These particulars are not available from ELEVATOR WORLD.*



John A. Miller began his elevator industry career in 1935 and was district manager for Houghton Elevator Company's Philadelphia area prior to founding John A. Miller & Associates, Consulting Engineers. He was first registered as a Professional Engineer in Pennsylvania in 1948 and also admitted to practice in Maryland and the District of Columbia. His memberships are within the National Panel of Arbitrators of the American Arbitration Association, The National Society of Professional Engineers (Philadelphia Section), The Institute of Electrical and Electronic Engineers, The Construction Specifications Institute, The National Association of Elevator Safety Authorities, The National Association of Elevator Contractors and the International Association of Elevator Consultants. He was a director of the Consulting Engineers Association of Philadelphia. Miller served as

chairman for five years on the area code committee for the National Elevator Manufacturing Industry, Inc. and for four years on the Association's local labor committee. He was a member of the faculty of the University of Pennsylvania, College of Fine Arts and taught a course in "Vertical Transportation" in the Graduate School of Architecture. Miller provides accident investigation and reporting services for his firm and frequently serves as a consultant to the legal profession and insurance companies where elevator and escalator accidents are involved. These services include testimony as an expert witness in cases where court action becomes necessary. Such involvement has provided the background for the "Court Cases of Consequence" columns.

Robert R. Fischer, Sr.

Robert R. Fischer Sr., an elevator consultant and longtime contributor to our "Law and Liability" column, is an engineering graduate of the University of Texas. After a four-year stint during World War II as a naval ordnance officer, he commenced a 50-year career with the U.S. elevator industry, undertaking engineering, factory and field responsibilities and serving several major companies in the offices of Field Superintendent, General Manager, Regional Manager and vice president of Contract Control. For the past nine years, Fischer has been a consultant advising on management projects for both the elevator industry and elevator owners, as well as contract administration and claims and risk management (product liability, personal injury and Worker's Compensation).



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TABLE OF CONTENTS

Section I — Court Cases of Consequence by John A. Miller I

Too Little Knowledge	1	& Elevator Company	83
Pack Up and Leave	2	Negligence Per Se	84
General Custom and Usage	2	Comb Plates – “A Penny Saved is a Penny Earned”	85
Beautiful But Inoperative	3	Escalator Overloads	86
Watch Those Jaw Clearances	4	Public Housing	87
The Car Switch Spring	5	Workmen’s Compensation	89
Safety Design and Test	7	Murphy’s Law At Its Finest	90
Stop That Escalator How Soon?	9	Prefab Strike Doctrine Upheld in Court	91
How Safe By Today’s Standards?	11	Swing Doors and Collapsing Car Gates	92
Don’t Do Half a Job	12	More On Workmen’s Compensation	93
Insurance Inspectors Need Stronger Shoulders	12	Ability To Pay	94
Look Before You Bid	13	Put-ons and Rip-offs	95
The Job Drags On	15	Spell It Out In Writing	96
O For a Good Night’s Sleep	16	Detective and City Hall	97
Some Small Consolation	18	Rescue By Computer	98
Let’s Make the Temporary Hoist Safe	18	Elevators In Cement	99
Riders On a Builder’s Hoist	20	No Fault Elevator Insurance?	100
Open Door To Trouble	21	Elevator Malpractice?	100
Tort and Law	22	More On Extending Toe Guards	101
The Fact Speaks For Itself	24	Barratry	102
Not Inclined To Go	25	Lawyers versus Legislative Law	103
Technology versus Emotion	27	Win Some – Lose Some	105
Come Fix My Elevator	29	We Don’t Always Lose	106
Persistent Merchandising	30	What Price Justice?	107
Score One For The Industry	32	Some Prefabrication Coming?	108
Whys and Wherefores of Arbitration	32	Constant Surveillance?	109
Privity	34	Magic Dust	110
The Sliding Board Caper	36	Still More On Extending Toe Guards	110
Don’t Volunteer!	37	Psychosomatic Problems?	111
Duty To Warn	38	How To Win When You Lose	111
Standard Elevator Packages	40	Accelerating Moving Walks	112
Water Hammer	42	Slamming Doors	113
How Safe is Safe?	44	Relevelling – Good or Bad?	114
Buyers Beware	47	So What’s New?	115
Justice Triumphs	48	Slamming Doors – 2	116
General Services Administration Certification	50	Nuts & Bolts	117
More Effective Use of Inertia Trip	53	Strictly Mugwump	118
Who Has The Buckle?	56	Frivolous Suits	119
Reasonable or Unreasonable Overload?	58	No Maintenance Intended!	120
Underwriter’s Laboratories	59	Irrelevancy	120
Owner’s Liability	61	Tell It To The Judge!	121
Murphy’s Law	62	The Law Does Recognize Competent Contractors	122
The Jerk That Isn’t There	64	Run For The Hills	123
Perfection and the Safety Inspector	65	Infallible Juries	123
Defend Every “Jerk” Case	67	The Phantoms of the Machine Room	124
Ancient Mariners	67	One Million Bucks	125
Sacred Cows	69	Sex Drive Lost In Lift!	126
All Knowledge and Understanding Required	70	A Christmas Story	127
Comb Plate Conversions	72	The English Rule	128
Backaches	73	How Many Door Protective Devices	129
Cylinder Failure	74	How Long The Vane	130
What is a Contract?	75	That Critical Clearance	131
No Fault	76	Rip-offs and Testimony Selling	132
More On No Fault	79	Court Cases of Consequence	133
How To Be a Witness	81		
Contribution – Romanelli vs. Department Store			

Section 2 — Specific Risk Management Cases by Robert R. Fischer, Sr.135

Case Study 2-35-1	137
Only Employee Riders (Case Study 1-31-1)	138
Case Study 20-12-3	138
Case Study 4-7-4	139
Case Study 4-24-2	139
Case Study 19-24-4	139
Excessive Callbacks (Case Study 7-40-3)	140
Free Fall? (Case Study 18-7-3)	141
Falls Into Pits (Case Studies 8-10-1, 8-22-1, 8-14-2, 8-35-2, 8-30-4 and 8-35-4)	141
Tripping Accidents (Case Study 04-00-00)	143
Full Maintenance (Case Study 13-9-4)	144
Case Study 5-34-2	144
The Stripper (Case Study 3-31-3)	145
Risk Management (Case Studies 3-9-1, 3-31-1, 4-23-1, 7-5-2, 13-21-3 and 14-29-2)	145
Loose Handrail (Case Study 14-15-2)	147
Case Study 5-4-1	147
Deep Pockets (Case Study 2-33-1)	148
SIR Case Study and Analysis	148
Accident “Must Dos” (Case Study 13-38-3)	150
Majority Unavoidable (Case Study 3-8-3)	150
Case Study 4-10-2	151
Case Studies 15-28-3, 15-19-2 and 16-22-2	151
Follow-Up Repair Notices (Case Study 2-32-1)	152
Do Your Job (Case Study 15-29-1)	154
The Amateur (Case Study 13-26-3)	154
Full Maintenance Plus (Case Study 5-21-4)	155
Playing Poker (Case Study 3-6-2)	155
On The Ball! (Case Study 10-21-1)	155
What Price Glory? (Case Study 3-11-1)	156
Passing the Buck (Case Study 2-9-2)	156
Duty To Warn (Case Study 4-3-2)	157
Case Study 4-3-1	157
Case Study 4-27-4	158
Case Study 5-20-3	158
Economics Take Precedence (Case Study 3-18-3)	159
Prevalent Door Incidents (Case Study 3-34-1)	159
Breach of Contract (Case Study 3-20-2)	160
Reducing Exposure (Case Study 4-2-5)	161
Timely and Complete Records (Case Studies 4-26-1, 21-14-3, 19-1-3 and 5-19-4)	161
Just Plain Digging (Case Study 2-25-1)	162
Same Housing Project (Case Studies 23-18-4 and 23-28-4)	163
Accident Waiting To Happen (Case Study 3-2-1)	164
Knowing the Limitations (Case Study 4-7-1)	165
Quality Cannot Be Legislated (Case Study 23-14-4)	165
Much in Common (Case Studies 6-1-3 and 6-7-5)	165
Case Study 5-1-1	166
Help Needed (Case Study 11-24-1)	167
Who’s In Charge? (Case Study 22-1-4)	167
Essential Diplomacy (Case Study 15-36-4)	167
Alleged Injuries (Case Study 3-17-2)	168
What are the Odds? (Case Study 9-17-1)	168
Frivolous Litigation	169
Case Studies 3-27-1, 17-4-3 and 12-1-2	169
Case Studies 3-22-3 and 4-15-1	170
Case Studies 3-2-2 and 3-39-3	171
Early Settlement (Case Study 13-25-2)	171
Look Carefully — There has to be a Reason (Case Study 7-18-1)	171
Insurance Company Settlements (Case Studies 3-34-3, 3-29-4, 3-5-4, 15-11-3)	172
Delayed Settlement (Case Study 6-5-1)	173
Sometimes the Sun Does Shine (Case Study 7-6 1)	173
Settlement Offered, Rejected and Accepted (Case Study 3-30-2)	174
Risk Management Curiosity Pays Off (Case Study 14-18-2)	174
Cost Effective to Settle Phony Cases (Case Study 7-12-2)	174
Missing Tie-Down Gear (Case Study 23-10-3)	175
Trapped (Case Studies 5-8-2, 5-23-2, 5-11-2, 5-27-3, 5-12-4)	175
Injuries Sustained in Car and/or Hoistway Doors (Case Studies 3-29-3, 3-36-3, 3-10-4, 3-15-4, 3-26-4, 3-32-3, 3-40-4, 3-4-5)	177
Callbacks on MG Brushes (Case Study 4-10-14)	179
Vandalized Escape-Hatch Cover (Case Study 14-31-4)	180
Avoidable/Unavoidable Accidents (Case Studies 13-23-3, 13-22-4, 13-1-5, 13-26-2, 13-5-3, 13-16-2)	180
Falling Complaints (Case Studies 19-34-4 and 19-9-3)	182
Cover-Ups: Negligence and Incompetence (Case Studies 13-24-3, 4-2-4, 4-21-2, 13-3-5, 4-32-2, 4-31-2)	183
Accidents are not Repair Opportunities (Case Studies 4-7-2, 4-8-1, 4-16-1)	185
Sudden Stop (Case Study 13-6-5)	186
A Waste of Time and Money (Case Studies 4-28-2, 4-37-2, 4-40-2, 4-13-3, 4-30-3, 4-4-4, 4-32-3)	186
Calling the Bluff (Case Study 3-6-2)	189
Passing the Buck (Case Study 22-13-4)	189

Section 3 — Law, Liability and Risk Management173

Legal Principals of Escalator Accidents by <i>Carl J. White</i>	193	The Defense Never Rests by <i>F. Lee Bailey</i>	242
Texas Ten-Year Statute is Constitutional – Bars Action Against Elevator Designer/Manufacturer	194	Does a Manufacturer’s Liability Ever End? Product Longevity by <i>Philip Partridge</i> and <i>James Tarlton</i>	244
Claims Management Through Documentation by <i>Ben Shapiro</i>	195	Executive Guide to Depositions	245
Wrongful Discharge Lawsuits	196	Caseload at Record High	246
Single-Speed AC Leveling	196	Costly Mistakes	246
Punitive Damages – When Are They Justifiable by <i>Henry T. Courtney</i> and <i>Frank J. Cavico, Jr.</i>	198	So You Had To Give a Deposition by <i>George Strakosch</i>	247
When is Mediation An Alternative To Litigation by <i>George H. Friedman</i>	203	Liability and Tort Reform by <i>Henry Cohen</i>	248
Watch the Language!	205	Future Litigation Trends – The Attorney’s Point of View by <i>Philip Partridge</i> and <i>Robert Denniston</i>	251
When is Mediation an Alternative to Litigation by <i>John P. Gnaedinger</i>	206	Pictorial Evidence in Construction Disputes by <i>Norman B. Lovejoy</i>	253
Mediation-Arbitration – Keeping Conflicts Out of Court by <i>John P. Gnaedinger</i>	206	Shielded From Site Safety Claim	256
Review of Traction Drive Failure by <i>Lindley Manning</i>	209	Uniform Product Liability Standards	256
Designing for the Jury	215	The Rise of the Professional “Expert” by <i>Philip</i> <i>H. Partridge</i> and <i>James W. Tarlton</i>	257
United States of America Occupational Safety and Health Review – Commission of OSHRC Docket No. 83-1049	216	Legal Uncertainty Forces Beneficial Products Off The Market	259
Construction Insurance Market in 1987 by <i>Harry F. Brooks</i>	217	Tort Reform Debates During 1990 Sessions	259
Is The Worm Turning?	220	Liability Prevention Through Systems Safety by <i>Lewis Bass</i>	260
The Art of Giving a Deposition by <i>Robert B. Goss</i>	221	Innovation on Trial	264
Outline of Discovery Practice in Personal Injury by <i>Daniel P. Lynch</i>	225	Duty To Warn by <i>David B. Evans</i>	266
Additional Insureds by <i>Harry F. Brooks</i>	226	Beware of Contingent Clauses by <i>McNeill Stokes</i>	267
Making Insurance Affordable by <i>Harry F. Brooks</i>	228	Beware of Contingent Clauses – Part II by <i>McNeill Stokes</i>	269
Product Liability: How To Prevent It by <i>Lewis Bass</i>	230	Typically What an Elevator Company Will Be Sued For	271
Variety of Risk Control Techniques Reduce Liability Losses by <i>Harry F. Brooks</i>	232	Impact of Product Liability on Innovation	274
Pay When Paid	233	NYC Bar Recommends Damages Reform	275
Injured Worker Loses Suit Against Hoist Manufacturer	233	Alternative Dispute Resolution	275
OSHA Can Go Against Bankrupt	233	It’s Your Credibility	275
Tort Reformers Fighting Rollbacks	233	Who Was There?	277
Understanding The Proposed Uniform Construction Lien Act by <i>Joseph H. Kasimer</i> and <i>Stephen J. Annino</i>	234	Cases of Interest by <i>Nicholas S. Papeleacos</i>	278
Fear of Litigation Stifles Innovation	236	Punitive Damages: An Overview: A Brief History of Punitives	279
Legal Smokescreen, Says ATRA	236	Trap: Unreasonable Risk	282
Engineers’ Liability	237	Duty of Mechanic Reconditioners	283
Damages From a Dead Friend	237	No Fault!	283
Court Defines Age Bias	238	“Pay-When-Paid” Clauses: Different States, Different Rules by <i>Michael P. Davis</i>	283
Undue Influence	238	Frivolous Law	285
No OSHA Fishing	238	The Book of the Year	285
Put It In Writing by <i>Joseph H. Kasimer</i>	239	Waiver of Lien Enforced Against Subcontractor	286
Protecting Your Client From Himself by <i>Paul E. Pritzker</i>	240	Warning Label Not Sufficient	286
Going Without Liability Insurance	241	The U.K. K.O.ing Risk-Shifting Documents	287
Sanctions Abroad	241	Lawyers Limping Too	287
		Civil Justice Reform	288
		Contract Payments You May Have To Give Back by <i>Cyrell E. Lynch</i>	288
		A Court Case of Consequence	290
		Damages	291
		Bicentennial of Mechanics’ Lien Act	292
		Settle Early?	292

Section 3 — Law, Liability and Risk Managementcontd.

Model State Punitive Damages Act	293	Metro Must Pay for Escalator Accident by <i>Germain Bolduc, CBA MCI Consultants, Inc.</i>	326
Frustration	293	New York City Liable for Scaffolding Violation	327
Punitives Evidence Must Be “Clear and Convincing”	293	Punitive Damages Limited	327
Who’s In Charge?	294	Elevators in the Workplace	327
Company Consultants	294		
Bright Son; Bad Lawsuit	294		
Duty To Warn by <i>Hubert Hayes</i>	295		
’Til The End of Time!	295		
The Texas Tort Tax	296		
Judge or Jury	297		
Threat of Lawsuits Limits Innovation	297		
When Employees Moonlight as Entrepreneurs ..	298		
When Warnings Aren’t Required	298		
Cap Removal Could Be Devastating	299		
Bad News for Manufacturers	299		
Putting a Cap on the Duty To Warn	299		
Good News in Mississippi	300		
Otis Obtains Permanent Injunction Against PCX	300		
Defense Against Frivolous Suits	300		
Making and Keeping Better Records to Minimize Liability by <i>Joel F. Pierce and Judith A. Perritano</i>	301		
Liability Reduction	304		
Federal Medical Liability Reform by <i>Martin F. Connor</i>	307		
Keep Elevators Working	308		
Overload + No Oil = Lawsuit!	309		
Contention in the Service Arena	309		
Photocopying Newsletter Violates Copyright Act	310		
Lift Engineer and Firm Guilty	311		
New Twist To Enforcing Federal Prompt Payment Act	311		
Protecting Intellectual Property	312		
Frivolous Litigation	312		
Noncompete Clauses	312		
Plaintiffs’ Lawyers Lead in Campaign Contributions	313		
Coping With Disabled Job Applicants	313		
The Common Sense Legal Reforms Act	314		
Rooting for Litigation Reform	315		
What You Don’t Know Can’t Hurt You	316		
International Information Exchange – Risk Management and Safety in Japan By <i>Trish Carter</i>	316		
Introduction Intellectual Property By <i>Michael S. Denniston</i>	320		
Product Liability Reform	321		
Not Out of the Loop	322		
Short Take	322		
Patents No Longer Pending in Brazil	322		
Supplement Help for Well-Known Occurrences by <i>D.A. Swerrie, Safety Engineer</i>	323		