

DANA BURNLEY AND RALPH
BURNLEY, H/W

IN THE SUPERIOR COURT OF
PENNSYLVANIA

v.

LOEWS HOTEL, PHILADELPHIA
HOTEL OPERATING COMPANY, INC.,
TWELFTH STREET HOTEL
ASSOCIATES, AUDIO VISUAL
SERVICES GROUP, INC. D/B/A PSAV
PRESENTATION SERVICES, LAWALL
COMMUNICATIONS, CHECKERS
INDUSTRIAL PRODUCTS, CHECKERS
SAFETY GROUP, CHECKERS
INDUSTRIAL SAFETY PRODUCT,
FIREFLY CABLE PROTECTORS,
LINEBACKER CABLE MANAGEMENT
AND ASCENDANT VENTURES, INC.

No. 370 EDA 2023

v.

INDUSTRY ADVANCED
TECHNOLOGIES, INC., ASCENDANT
VENTURES, INC., FALLINE
CORPORATION, FOH PRODUCTIONS,
EVAN ANDREWS, EVAN ANDREWS
DESIGN AND ALLEN PRICE, PRICE
PRODUCTIONS, LLC AND
CHRISTOPHER HASSFURTHER

APPEAL OF: CHECKERS INDUSTRIAL
PRODUCTS, LLC

Appeal from the Judgment Entered January 10, 2023
In the Court of Common Pleas of Philadelphia County Civil Division at
No(s): 160901257

DANA BURNLEY AND RALPH
BURNLEY, H/W

IN THE SUPERIOR COURT OF
PENNSYLVANIA

Appellants

v.

LOEWS HOTEL, PHILADELPHIA
HOTEL OPERATING COMPANY, INC.,
TWELFTH STREET HOTEL
ASSOCIATES, AUDIO VISUAL
SERVICES GROUP, INC. D/B/A PSAV
PRESENTATION SERVICES, LAWALL
COMMUNICATIONS, CHECKERS
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INDUSTRIAL SAFETY PRODUCT,
FIREFLY CABLE PROTECTORS,
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v.

INDUSTRY ADVANCED
TECHNOLOGIES, INC., ASCENDANT
VENTURES, INC., FALLINE
CORPORATION, FOH PRODUCTIONS,
EVAN ANDREWS, EVAN ANDREWS
DESIGN AND ALLEN PRICE, PRICE
PRODUCTIONS, LLC AND
CHRISTOPHER HASSFURTHER

No. 485 EDA 2023

Appeal from the Judgment Entered January 10, 2023
In the Court of Common Pleas of Philadelphia County Civil Division at
No(s): 160901257

BEFORE: LAZARUS, P.J., BOWES, J., PANELLA, P.J.E., DUBOW, J.,
McLAUGHLIN, J., KING, J., SULLIVAN, J., BECK, J., and LANE, J.

CONCURRING OPINION BY KING, J.:

FILED MARCH 5, 2026

I agree with the Lead Opinion’s decision to affirm in this case and echo
the points of departure from the Lead Opinion addressed in Judge Beck’s

Concurring Opinion.

I write separately to note my agreement with Judge Bowes, to the extent that she advocates for the wholesale rejection of the product line exception by our Supreme Court or by this Court *en banc*, where the issue of the continued applicability of the exception is properly preserved for review. As well-articulated by Judge Bowes in her Dissenting Opinion, adoption of the product line exception can have a chilling effect on businesses, and “in no way serves the policy goal of encouraging modified behavior by the tortfeasor.” (**See** Dissenting Opinion at 18-20).

As my colleagues have noted in the Concurring Opinion and Dissenting Opinion, however, Checkers waived any challenge to the continued viability of the product line exception in Pennsylvania. That challenge aside, I am constrained to agree with the Lead Opinion’s decision to affirm for the reasons set forth therein, subject to the points of departure outlined in Judge Beck’s Concurring Opinion.

Therefore, I respectfully concur in the result reached by the Lead Opinion.