

## MARTIN A. SCHWARTZBERG

SHAREHOLDER



### AREAS OF PRACTICE

New York Construction & Labor Law  
Construction Injury Litigation  
Architectural, Engineering & Construction  
Defect Litigation  
General Liability  
Premises & Retail Liability  
Miscellaneous Professional Liability  
Insurance Agents & Brokers Liability  
Lawyers' Professional Liability  
Catastrophic Claims Litigation  
Product Liability  
Environmental & Toxic Tort Litigation

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### ADMISSIONS

Connecticut  
1989

New York  
1989

U.S. District Court Eastern District  
of New York

U.S. District Court Southern  
District of New York

### EDUCATION

Hofstra University School of Law  
(J.D., 1989)

State University of New York at  
Binghamton (B.A., 1986)

### YEAR JOINED

2015

### OVERVIEW

Martin is a member of the Casualty Department where he handles construction accident cases involving New York Labor Law and Industrial Code. Martin has over twenty-five years of experience in handling Labor Law litigation, having represented owners, contractors, architects and engineers in defense of these types of claims. Additionally, he represents owners, architects, engineers and elevator maintenance companies in cases involving alleged elevator malfunctions due to claimed issues with the design, installation and maintenance of the elevators in question.

An experienced litigator who has handled cases from inception through trial, Martin has counseled and defended architects, engineers, landscape architects, land surveyors and construction firms in claims and lawsuits brought against them for professional malpractice, breach of contract, construction delays, construction defects, personal injury and property damage. He has also defended design professionals in disciplinary actions brought by governmental authorities.

In addition to his significant experience in the defense of design and building professionals, Martin has also represented and defended other entities such as municipalities and property owners in premises liability matters. He has handled several personal injury mold exposure cases representing a professional engineering firm that was brought to the premises to perform mold testing. Martin shares his broad knowledge of risk and liability in numerous lectures and presentations he has made to various groups of design and construction professionals.

Martin attended the State University of New York at Binghamton and received his Bachelor of Arts in Political Science in 1986. He then went on to earn his *juris doctor* from Hofstra University School of Law in 1989. He is a member of the New York State Bar Association and is admitted to practice in New York and Connecticut, and before the United States District Courts for both the Southern and Eastern Districts of New York.

## THOUGHT LEADERSHIP

### **Court Grants Insurance Broker Summary Judgment Dismissing Complaint and Awarding Broker Its Fees**

**Long Island, NY – Melville**  
**Insurance Agents & Brokers Liability**  
**October 19, 2020**

I was recently successful in obtaining summary judgment and dis The material in this law alert has been prepared for our readers by Marshall Dennehey Warner Coleman & Goggin.

### **New York Appellate Court Upholds Dismissal of Claims Against Insurance Broker**

**Long Island, NY – Melville**  
**Insurance Agents & Brokers Liability**  
**September 1, 2020**

The holding in *Da Silva v.* The material in this law alert has been prepared for our readers by Marshall Dennehey Warner Coleman & Goggin.

### **New York Courts Continue to Require a High Standard of Proof to Support Claims Against Insurance Brokers**

**Long Island, NY – Melville**  
**Insurance Agents & Brokers Liability**  
**March 1, 2019**

Edited by Timothy Ventura, Esq.< Legal Updates for Insurance Agents & Brokers - March 2019, has been prepared for our readers by Marshall Dennehey Warner Coleman & Goggin.

### **Appellate Division Upholds Dismissal of Claims Against Insurance Broker**

**Long Island, NY – Melville**  
**Insurance Agents & Brokers Liability**  
**July 1, 2018**

Edited by Timothy G. Legal Updates for Insurance Agents & Brokers - July 2018, has been prepared for our readers by Marshall Dennehey Warner Coleman & Goggin.

## **CLASSES/SEMINARS TAUGHT**

*Ethics for Engineers*, American Council of Engineering Companies (ACEC), Long Island Chapter, April 2022

*Ethics for Engineers*, American Council of Engineering Companies (ACEC), Long Island Chapter, January 2016

*Handling Potential Spoliation of Evidence Issues When Representing the Design Professional*, CNA's 54th Annual Meeting of Invited Attorneys, 2015

## **PUBLICATIONS**

"Spoliation Issues When Representing the Design Professional," *New York Law Journal*, July 14, 2015

*Legal Update for Insurance Agents & Brokers*, contributor, July 2018 - present

## RESULTS

### Dismissal of Breach of Contract and Professional Malpractice Claims Achieved at Trial

#### **Architectural, Engineering & Construction Defect Litigation**

**April 5, 2024**

We achieved dismissal of a breach of contract and professional malpractice claim against a professional engineering firm that provided construction monitoring services for a lender. When the project went south (for a multitude of reasons unrelated to the engineer's services), the project developer, who had obtained an assignment of rights from the lender, sought to hold the engineer responsible for project cost overruns. After a seven-day bench trial and testimony from nine witnesses, the court dismissed the complaint in its entirety.

### NY Labor Law Case Won by Motion for Summary Judgement

#### **New York Construction & Labor Law**

**January 24, 2018**

Obtained summary judgment on behalf of an owner and tenant where plaintiff alleged violation of Labor Law §§ 240(1), 241(6) and 200 when he fell off a ladder at the premises. The plaintiff claimed that the defendants violated these Labor Law sections in failing to provide him with a secure ladder and adequate safety devices while he was working on the alarm system at the premises. Defendants contended that the activity that the plaintiff was performing constituted maintenance and not repair of the alarm system and therefore was not an activity covered under the Labor Law.

### Summary Judgment for Insurance Broker in Negligence and Breach of Contract Action

#### **Insurance Agents & Brokers Liability**

**January 16, 2018**

Obtained summary judgment in Nassau County, New York on behalf of an insurance broker in a negligence and breach of contract action. Our client allegedly failed to procure proper insurance coverage, resulting in uninsured Superstorm Sandy-related losses claimed to be in excess of \$2.3 million. The court granted summary judgment and dismissal of the complaint, finding that the plaintiffs were unable to support its claims without non-hearsay evidence.