

DAVID G. TOMEO

SHAREHOLDER



AREAS OF PRACTICE

Health Care Liability

CONTACT INFO

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ADMISSIONS

New Jersey
1989

U.S. District Court District of New
Jersey
1989

U.S. Court of Appeals 3rd Circuit
1989

Pennsylvania
2020

U.S. District Court Eastern District
of Pennsylvania

EDUCATION

Seton Hall University School of
Law (J.D., cum laude, 1989)

Montclair State University (B.A.,
summa cum laude, 1986)

OVERVIEW

David concentrates his practice in the defense of medical malpractice claims in Pennsylvania, New Jersey and New York. He is often called upon to represent staffing companies and health care practices in malpractice suits, utilizing his substantial knowledge and experience to guide corporate entities in handling issues commonly faced in these cases, including "piercing the corporate veil" allegations, violation of the corporate practice of medicine doctrine, and claims for respondeat superior liability.

Clients routinely seek David's counsel to defend malpractice actions seeking to hold a parent or holding company liable for the alleged negligent actions of subsidiaries and the health care providers employed by such subsidiaries. In addition, urgent care center franchisors rely on David's keen understanding of the unique intersection of medical malpractice and franchise law when facing medical malpractice suits.

David has extensive trial and courtroom experience throughout Pennsylvania, New Jersey and New York. In addition to his trial court work, he has argued before the New Jersey Supreme Court and has handled numerous appeals in the Appellate Division of the New Jersey Superior Court. He has also served as an author and speaker on current trends and issues impacting his clients.

Giving back and contributing to his community is a top priority for David. He provides pro bono legal services through Volunteer Lawyers for Justice and has been honored with the organization's "Volunteer of the Year" award.

HONORS & AWARDS

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YEAR JOINED

2023

THOUGHT LEADERSHIP

Turnabout Is Fair Play: When an Expert Switches Sides on the Eve of Trial

Roseland
Health Care Liability
May 8, 2023

New Jersey Litigation Leader David G. Tomeo Joins Marshall Dennehey's Roseland Office as a Shareholder in the Health Care Department

Health Care Liability
March 13, 2023
David G.
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PUBLISHED WORKS

"Turnabout is Fair Play: When an Expert Switches Sides on the Eve of Trial," *New Jersey Law Journal*, Medical Malpractice Supplement, May 8, 2023

SIGNIFICANT REPRESENTATIVE MATTERS

Obtained a dismissal in the Superior Court of New Jersey on personal jurisdiction grounds of a multi-count complaint brought by a New Jersey based medical laboratory against our client, an Arizona company which provides both medical services and health insurance to Arizona residents. The plaintiff argued that our client was amenable to suit in this State, asserting that our client had business interactions with the laboratory in New Jersey. In opposition, we were able to establish that not only was such assertion untrue, but also that any claims sent by the plaintiff to our client for testing services would have been processed in Arizona and that our client did not have any contacts – much less the constitutionally mandated minimum contacts – necessary for personal jurisdiction in New Jersey. In addition, finding that the plaintiff did not conduct any due diligence before filing suit, and did not make any attempt to take jurisdictional discovery while the motion was pending, the Court dismissed the action with prejudice in New Jersey, despite the plaintiff's argument that a dismissal without prejudice was appropriate, thus leaving to the courts of Arizona whether such a dismissal has preclusive effect in any suit brought there under these facts.

Obtained summary judgment for a large insurance carrier in a coverage action in New Jersey Superior Court, Essex County. The client's insured, a sports and recreation facility, named the company in a third-party complaint seeking coverage for injuries allegedly sustained by plaintiff in a tennis court accident. The subject policy had an express condition requiring the provision to the carrier of a waiver and release signed by a participant in connection with the submission of a claim.

Having to concede that a waiver and release was not obtained nor provided to the carrier in connection with the claim, the insured tried to "re-write" the condition to say that a waiver and release was not required as the plaintiff bypassed the system in place, and participated without authorization. In a case of apparent first impression in New Jersey, the Court found the policy language clear and unambiguous and enforced it as written, declining the insured's invitation to engage in "linguistic gymnastics" to find against our client.