

## DIANE K. TONER

SPECIAL COUNSEL



### AREAS OF PRACTICE

Appellate Advocacy & Post-Trial Practice  
New York Construction & Labor Law  
General Liability

### CONTACT INFO

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88 Pine Street, 29th Floor  
New York, NY 10005

### ADMISSIONS

New York  
2007

U.S. District Court Eastern District  
of New York  
2009

U.S. District Court Southern  
District of New York  
2009

### EDUCATION

Fordham University School of Law  
(J.D., 2005)

University of Pennsylvania (B.A.,  
magna cum laude, 1998)

### ASSOCIATIONS & MEMBERSHIPS

New York City Bar Association

New York State Bar Association

### YEAR JOINED

2023

### OVERVIEW

Diane is a member of the firm's Appellate Advocacy and Post-Trial Practice Group. As an appellate and motion specialist, her written and oral advocacy help the firm achieve its litigation goals at both the trial and appellate level.

With over 15 years of writing experience, Diane is adept at drafting all kinds of motions, from dispositive motions and appeals to discovery motions, trial memoranda, and post-trial motions. Diane is skilled at drafting persuasive motion papers that highlight key issues for the motion court while creating a comprehensive record for appellate review.

Prior to joining Marshall Dennehey, Diane served as an appellate and motion attorney at a New York City law firm where she defended municipal entities and construction companies against Labor 240(1), 241(6) and 200 claims. Among other achievements, her advocacy resulted in the dismissal of plaintiff's entire case against all defendants in a New Jersey action where plaintiff attempted to apply New York Labor Law.

Diane has appeared for oral argument in the First and Second Departments of the Appellate Division.

### THOUGHT LEADERSHIP

#### Marshall Dennehey Welcomes Appellate Attorney Diane K. Toner In New York

Appellate Advocacy & Post-Trial Practice  
January 9, 2024

Appellate attorney Diane K. Toner has joined Marshall Dennehey's Manhattan office as Special Counsel.

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## RESULTS

### New York Appellate Division Dismisses Appeal, Upholding Summary Judgment Victory

#### **Appellate Advocacy & Post-Trial Practice**

**March 19, 2025**

We successfully defended against the plaintiff's appeal in the Appellate Division, Second Department. The appeal challenged an order that adhered to a prior ruling by the Supreme Court, Westchester County, which had granted the defendant's motion for summary judgment, dismissing the complaint. In our brief, we argued that the appeal should be dismissed due to the plaintiff's failure to assemble a proper record on appeal. The plaintiff omitted critical documents relied upon by the motion court, including submissions supporting and opposing the defendant's motion.