

DIANE K. TONER

SPECIAL COUNSEL



AREAS OF PRACTICE

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

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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

Precedent Established: New York Appellate Division Grants Discovery of Third-Party Litigation Funding

New York
Appellate Advocacy & Post-Trial Practice
Fraud/Special Investigation
Personal Injury Protection (PIP) Litigation
General Liability
December 1, 2025

Key Points:

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

All Claims Dismissed in a Slip and Fall Case at a New York Hospital

Premises & Retail Liability

July 25, 2025

We obtained dismissal of all claims against our client in a case involving a slip and fall at a hospital. The plaintiff was employed by a trucking company and was in the process of filling a liquid oxygen tank located in the parking lot of the hospital when he fell on a sheet of ice near the oxygen station evaporators. He sustained numerous injuries, including injuries to his spine, resulting in cervical fusion. As a result of the accident, the plaintiff alleged significant lost wages, in addition to numerous personal injuries.

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.