

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.< The material in this law alert 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 6, 2018

Edited by Timothy G. The material in this law alert has been prepared for our readers by Marshall Dennehey Warner Coleman & Goggin.

Spoilation Issues When Representing the Design Professional

Long Island, NY – Melville
Architectural, Engineering & Construction Defect Litigation
July 14, 2015

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 Spoilation of Evidence Issues When Representing the Design Professional, CNA's 54th Annual Meeting of Invited Attorneys, 2015

PUBLICATIONS

"Spoilation 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.

Claims Against Architectural & Engineering Firm Dismissed

Architectural, Engineering & Construction Defect Litigation

September 21, 2015

Obtained summary judgment and dismissal of all claims against our client, a prominent architectural and engineering firm. The case arose when the plaintiff, while on a sidewalk, was struck by a pipe that fell from 18 stories during the erection of pipe scaffolding around the building. The defense strategy focused on the architect's lack of an obligation for direction, supervision or control of the work, or for site safety. The court held that our client demonstrated its entitlement to summary judgment and that it had no duty to the plaintiff nor to the other defendants wi