

## ADAM C. CALVERT

SHAREHOLDER



### AREAS OF PRACTICE

General Liability  
Construction Injury Litigation  
Premises & Retail Liability  
Automobile Liability  
Product Liability  
Trucking & Transportation Liability  
Fraud/Special Investigation  
Property Litigation  
Amusements, Sports & Recreation Liability  
New York Construction & Labor Law  
Rideshare Liability

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### ADMISSIONS

New York  
2009

U.S. District Court Southern  
District of New York  
2010

U.S. District Court Eastern District  
of New York  
2010

### EDUCATION

Fordham University School of Law  
(J.D., 2009)

University of Maryland (B.A., 2004)

### HONORS & AWARDS

AV® Preeminent™ by Martindale-  
Hubbell®

New York Metro Super Lawyer  
Rising Star  
2015-2023

### YEAR JOINED

2012

### OVERVIEW

Adam Calvert is a shareholder in the firm's Casualty Department where he represents clients in the fields of construction injury litigation, retail liability, automobile litigation, trucking and transportation litigation, product liability actions, and amusements, sports and recreation liability. His clients include retail stores, construction companies, maintenance companies, amusement parks, theaters and product retailers, among other clients.

Adam has extensive experience representing clients in labor law cases, including those involving Labor Law 240(1) claims. Many of the plaintiffs in these cases allege serious debilitating injuries that prevent them from working again and the settlement demands are often in the multi-million-dollar range. In addition to defending these claims, Adam has also successfully brought third-party actions against subcontractors to defend and indemnify his clients.

He also handles a large amount of retail and premises liability cases. These cases involve everything from slip and falls to design and construction defects to assaults and inadequate security claims. He regularly works with experts and investigators to present the best defense for his client, but in doing so, he always takes a practical approach to the litigation by not needlessly retaining these experts and always does so with a purpose.

Adam also represents a variety of automobile clients. He has handled numerous commercial and personal trucking and vehicle accidents from investigation through trial. In addition to representing these automobile clients, he has also represented rideshare companies, obtaining some of the first summary judgment decisions in their favor in New York.

Since joining the firm, Adam has handled many high-exposure cases where the plaintiff's alleged damages have the potential for a seven-figure recovery. For example, he has handled multi-fatality automobile accidents, construction site falls and traumatic product liability injuries. In these, and in all of his cases, he conducted site inspections and investigations, conducted all parts of discovery, drafted and argued summary judgment motions, and successfully settled cases at mediation. Throughout his cases, Adam always works closely with his clients to guide their cases to a successful resolution. He also prides himself on maintaining good relationships with opposing counsel to avoid needless disputes that waste time and money and do nothing to resolve the case.

Prior to joining Marshall Dennehey, Adam worked at a New York City law firm where he represented one of the country's largest construction management companies and the area's largest cable television company.

Adam is a graduate of Fordham University School of Law where he was a competitor on the Moot Court Team, the chairman of the Unemployment Action Committee, and a member of the International Law Journal and Federal Litigation Clinic. He received a Bachelor of Arts from the University of Maryland-College Park.

## THOUGHT LEADERSHIP

### **New York Second Department Addresses Future Medical Collateral Source Offset and Affordable Care Act in Case of First Impression.**

**New York**  
**General Liability**  
**October 1, 2024**

In a case of first impression, the Second Department held that a jury's award of future medical costs can be offset by what the plaintiff would have been covered for under the Affordable Care Act (ACA) HAD he obtained coverage. Case Law Alerts, 4th Quarter, Octo

### **New York Court Allows for Discovery of Litigation Funding Loan**

**New York**  
**General Liability**  
**July 1, 2024**

Generally, litigation funding loans are not discoverable in personal injury actions. These are "loans" given to injured plaintiffs as an advance on any settlement or verdict they might obtain. These "loans" are not subject to usury rates. Case Law Alerts, 3rd Quarter, July 2024 is prepared by Marshall Dennehey to provide information on recent developments of interest to our readers.

### **Policyholders May Recoup Attorney's Fees if Their Insurer Fails in Contesting Duty to Indemnify.**

**New York**  
**General Liability**  
**January 1, 2024**

The trial court issued a first-of-its-kind ruling, holding that an insurer defending a policyholder in litigation must also reimburse the insured party's coverage action costs if the insurer loses a legal challenge to its indemnity obligation. Case Law Alerts, 1st Quarter, January 2024 is prepared by Marshall Dennehey to provide information on recent developments of interest to our readers.

### **The Court of Appeals Addressed Primary Assumption of the Risk Doctrine**

**New York**  
**General Liability**  
**October 1, 2023**

Scholars wondered whether this doctrine would still be applicable because of recent New York cases stating that a plaintiff could be granted summary judgment on liability even if the plaintiff had comparative fault. See CPLR 1411. Case Law Alerts, 4th Quarter, October 2023 is prepared by Marshall Dennehey to provide information on recent developments of interest to our readers.

### **Marshall Dennehey Announces 2023 New York Metro Super Lawyers and Rising Stars**

September 22, 2023

Seven attorneys from Marshall Dennehey's New York City, Westchester County, and Long Island offices have been selected to the 2023 edition of New York Metro Super Lawyers magazine.

[Read More](#)

#### **PUBLISHED WORKS**

"Trend Watch: Out-of-Staters Finding the Basis For Personal Jurisdiction," *New York Law Journal*, November 10, 2023

"COVID-19's Impact on the Future of Civil Litigation in New York," *The New York Law Journal*, February 25, 2021

*Case Law Alerts*, regular contributor, 2017-present

"Federal Court Notice Standard in Premises Cases," *The New York Law Journal*, March 2, 2015

## RESULTS

### Summary Judgment Obtained in New York Ridesharing Case

#### **Rideshare Liability**

**July 8, 2024**

We won summary judgment for an online car sharing platform that connects vehicle owners (hosts) with travelers and locals (guests) seeking to book those vehicles for a fee in New York. The plaintiff alleged that he sustained serious injuries when he was involved in an automobile accident that collided with a vehicle listed on our client's website.

### Summary Judgment Secured in New York Motor Vehicle Accident Case

#### **Automobile Liability**

**June 13, 2024**

We obtained summary judgment after oral argument with Judge Anne Swern in Kings County Supreme Court in New York. This case involved a motor vehicle accident where the plaintiff was a backseat passenger in an Uber that rear-ended a vehicle owned and operated by our clients. We established that our clients were stopped for 10-15 seconds at a light when they were rear-ended by the Uber driver, who was precluded and could not submit any testimony in this matter.

### Summary Judgment Won in New York Slip and Fall Case

#### **Premises & Retail Liability**

**June 12, 2024**

We secured summary judgment in a New York case in which the plaintiff claimed that she slipped and fell on stairs in our client's building. The plaintiff alleged that she slipped on a wet condition on the stairway landing in an inadequately illuminated stairway. The defendant submitted an affidavit of its expert, which stated that the lighting measurements taken in the stairway complied with code. The defendant also demonstrated that it did not create the condition by submitting an affidavit of the building's porter, who stated that neither he nor any other porter mopped that morning.

### Appellate victory on behalf of mall owner.

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

**May 7, 2021**

The appeal was brought before the Appellate Division, Second Department. The plaintiff was a pedestrian who was struck by a car in the mall parking lot and sued our client, the mall owner. The plaintiff claimed that the parking lot was negligently designed, which led to the accident. The trial court granted summary judgment to the mall, saying that there was no evidence that the parking lot was negligently designed, or that the design led to the accident. A unanimous appellate court affirmed.

### Summary Judgment for Movie Theater Over Patron Fight in Parking Lot.

#### **General Liability**

**December 31, 2018**

We prevailed on an appeal before the Appellate Division, Second Department, NYC, reversing a lower court order that denied summary judgment to our client, the owner of a movie theater. The plaintiff was a patron at the movie theater, where he got into a fight with another patron over a parking spot. The plaintiff sued the theater for negligent security. The defense was able to show that there was no notice to the theater because the incident was sudden and unexpected, based on the short duration of the altercation, and the lack of similar prior incidents at the theater.

#### **SIGNIFICANT REPRESENTATIVE MATTERS**

Successfully defended a Labor Law 240(1) case where the demand was reduced from \$750,000 to a settlement of \$150,000. The plaintiff was a roofer who fell after improperly using his retractable harness. The plaintiff suffered debilitating back injuries requiring several surgeries.

Successfully settled a case for a nuisance value where the plaintiff's demand was over \$500,000. The plaintiff alleged that our client negligently built a handicapped ramp. Neither the plaintiff nor the other codefendants realized that the ramp that the plaintiff fell over had been rebuilt since Adam's client had built the original ramp. Adam was the only attorney to realize this fact after careful inspection of the ramp with his expert. When this fact was revealed at mediation, the plaintiff and codefendants were left without any claim against Adam's client, and he was able to obtain an easy settlement.

Obtained a summary judgment dismissing the plaintiff's case against an out-of-possession owner of a building where the plaintiff was injured on an elevator.

Obtained a summary judgment dismissing the plaintiff's labor law claims where a pry bar broke, causing a wall to fall on the plaintiff.

Obtained a summary judgment and indemnity from a subcontractor on behalf of a construction management company in a case where the plaintiff's settlement demand was over \$2,000,000.

Obtained summary judgment in the New York State Supreme Court, Kings County. Adam represented a maintenance company that provided management of the janitorial services for the codefendant hospital. The plaintiff was a patient in the hospital who slipped and fell on water outside of her room. Adam was able to have the plaintiff's direct claims dismissed because a contractor does not owe a duty to the plaintiff under the New York Court of Appeals case *Espinal v. Melville Snow Contractors*. He was also able to have the hospital's cross-claims for contribution and indemnity dismissed because he was able to show that the hospital also had some involvement with maintenance and janitorial services at the hospital.

Obtained summary judgment in the United States District Court, Southern District of New York. Adam represented a grocery store. The plaintiff testified that she slipped and fell on smashed and dirty vegetables in the frozen food aisle. She also testified that there were cart tracks near the vegetables. She argued that this description of the vegetables and cart tracks was sufficient to show constructive notice to the store. At the beginning of oral argument, the judge commented that he viewed it as a "very close" case. Adam was ultimately able to convince the court to dismiss the case by arguing that the plaintiff's description of the vegetables was just as consistent with the plaintiff slipping on the vegetables or someone creating the defect just before the plaintiff's accident. Therefore, the court concluded that the plaintiff's constructive notice argument was speculative and dismissed the case.

Successfully settled wrongful death and survival claims for millions less than value suggested by the mediator. Adam's client allegedly caused a fire at the decedent's home, causing the decedent to suffer severe burns and a three-month hospital stay before she passed away. Adam performed a site inspection with a cause and origin expert a few days after the fire, coordinated with investigators in obtaining statements from eyewitnesses and the local fire departments, and participated in a mediation that ultimately settled the case.

Adam obtained summary judgment in New York State Supreme Court, Bronx County on behalf of the owner of high-rise residential building that was undergoing a construction project. The plaintiff worked for a company that would clean each apartment after construction was completed in that particular unit. The plaintiff was injured and required multiple surgeries after falling from a kitchen counter while cleaning the top of a cabinet. The main issue in the case was whether the plaintiff's work qualified for protection under Labor Law 240(1), which imposes absolute liability upon the owner of a construction projects for workers who fall from height. Based upon a recent Court of Appeals case, *Soto v. J. Crew, Inc.*, 21 N.Y.3d 562 (2013), whether plaintiff was protected rested on 4 factors: (1) whether the work is routine, in that it is done on a recurring basis as part of the ordinary maintenance of the premises; (2) requires neither specialized equipment or expertise; (3) generally involves insignificant elevation risks comparable to those in typical household cleaning; and (4) in light of the core purpose of Labor Law 240(1), to protect construction workers, is unrelated to any ongoing construction project. There are very few post-Soto decisions. However, Adam was successful in convincing the court that plaintiff did not qualify for protection of the statute. The court felt that factors 2 & 3 clearly weighed in favor of the defense and also found relevant plaintiff's deposition testimony that she performed similar cleaning work in her own home. In distinguishing the 4<sup>th</sup> and final factor, the court noted that although cleaning was related to the building's construction, it was a separate phase of the project.

Obtained summary judgment in the New York State Supreme Court, Richmond County on behalf of an amusement park. The plaintiff claimed that he was injured on a water slide because of an improperly inflated inner-tube. The court found the defendant did not have notice of any alleged inflation issue based upon plaintiff's own testimony that he held the tube for 15-20 minutes before the accident without noticing a problem. The court was further influenced by the fact that numerous safety checks were performed by the park and that plaintiff could not establish a specific defect with the tube or how the tube's inflation caused his accident. The court also found that plaintiff's claims were barred by assumption of the risk, particularly given the plaintiff's age (in his 40s) and past experience with water rides.

Adam obtained the first summary judgment decision in New York for a prominent rideshare company. He successfully argued that the rideshare company could not be liable to the plaintiff because it did not own the vehicle in question. This was done at the early stages of litigation to save the client significant time and expense.

Adam obtained several dismissals for out-of-state clients based on lack of personal jurisdiction. These dismissals were based on recent Supreme Court and Court of Appeals decisions that altered personal jurisdiction in New York. By staying up to date on these recent cases, Adam was able to win dismissal for his clients.