

## OSWALD P. CLARK

ASSOCIATE



### AREAS OF PRACTICE

Product Liability  
Automobile Liability  
Premises & Retail Liability  
Construction Injury Litigation  
Health Care Liability

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### ADMISSIONS

Pennsylvania  
2018

### EDUCATION

Drexel University Thomas R. Kline  
School of Law (J.D., 2018)

University of Pittsburgh (B.A.,  
2011)

### YEAR JOINED

2017

### OVERVIEW

Oswald is an associate in the firm's Casualty Department, where he focuses his practice on defending products liability matters, including automobile design cases, industrial equipment, appliances, and many other consumer goods. He also represents clients in premises liability actions, workplace and construction accidents, as well as motor vehicle accident cases. He previously worked in the firm's Healthcare Department representing emergency room physicians, physician's assistants, nursing homes, dentists, podiatrists, chiropractors, and other healthcare providers. That experience has given him an acuity for analyzing complex medical records, which is essential for rebutting potentially uncorroborated damages claims.

Oswald received his Bachelor of Arts from the University of Pittsburgh, majoring in Philosophy. After graduation, he took post-graduate classes at Villanova University focusing on communication theory. While attending Drexel Law, Oswald taught constitutional law to local high students through the Marshall-Brennan Constitutional Literacy Project. In addition to teaching the weekly classes, he coached selected students to compete in a moot court competition, arguing a case incorporating the First and Fourth Amendments of the United States Constitution. Oswald was also a Leadership Fellow at Drexel, serving as a mentor to first year students transitioning into the law school curriculum.

Prior to joining Marshall Dennehey as a summer law clerk in May of 2017, Oswald was a student law clerk for the Honorable Anne Lazarus of the Superior Court of Pennsylvania, where he performed research assignments and drafted memorandum opinions on a number of criminal and civil cases.

## THOUGHT LEADERSHIP

### **Pennsylvania Court Dismisses Several Defendants from Product Liability Action Where Plaintiff Pled “More Likely Than Not” the Seller and/or Distributor of the Allegedly Defective Product**

**Philadelphia - Headquarters**

**Product Liability**

**July 1, 2024**

The plaintiff alleged he suffered injuries to his scalp from the application of a defective mole removal cream. Case Law Alerts, 3rd Quarter, July

### **Pennsylvania Supreme Court Rules that Evidence of Product’s Compliance with Governmental Regulations or Industry Standards Is Inadmissible in Design Defect Cases to Show a Product Is Not Defective Under the Risk-Utility Theory.**

**Philadelphia - Headquarters**

**Product Liability**

**January 1, 2024**

The plaintiff was injured at a jobsite when the platform of a six-foot tall mobile scaffold collapsed, causing him to fall through the scaffold to the ground. Case Law Alerts, 1st Quarter, January 2024 is prepared by Marshall Dennehey to provide information on recent developments of interest to our readers.

### **In-state flea market is not a seller of a product and no negligence duty exists for a flea market that merely markets and facilitates the sale of an allegedly defective product.**

**Philadelphia - Headquarters**

**Product Liability**

**July 1, 2023**

The plaintiff, a Pennsylvania citizen, brought suit in Philadelphia County, claiming injuries suffered from a defective snow thrower for which a recall had been issued. Case Law Alerts, 3rd Quarter, July 2023 is prepared by Marshall Dennehey to provide information on recent developments of interest to our readers.

### **Simply pleading design and manufacturing defects is not enough to overcome a Rule 12 motion to dismiss.**

**Philadelphia - Headquarters**

**Product Liability**

**January 1, 2023**

The plaintiff, a subrogee of a school district, filed a lawsuit sounding in strict liability, negligence, and promissory estoppel against the manufacturer of a dust collection venting system where a fire allegedly originated in one of the district Case Law Alerts, 1st Quarter, January 2023 is prepared by Marshall Dennehey to provide information on recent developments of interest to our readers.

### **Pennsylvania Superior Court provides clarification on medical malpractice expert testimony.**

**Philadelphia - Headquarters**

**Health Care Liability**

**July 1, 2020**

The plaintiff sued several medical providers, including a surgeon and his surgical practice. Case Law Alerts, 3rd Quarter, July 202

## RESULTS

### Summary Judgment Won in a Pennsylvania Premises Liability Case

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

**July 9, 2024**

We secured summary judgment in a premises liability case in Northampton County, Pennsylvania, dismissing all claims against a national sporting goods retailer. The plaintiff claimed he slipped and fell on a slippery substance inside a the store while testing out bicycles. The plaintiff and his wife admitted that after he fell, they did not inspect the floor and quickly left the store. Months later, and after filing suit, the plaintiff and an engineer visited the store and claimed that there was an open can of bicycle grease in the area where the fall had occurred.

### Client Successfully Dismissed from Significant Product Liability Matter

#### **Product Liability**

**September 21, 2023**

We obtained dismissal of our client via preliminary objections in a significant product liability matter. The plaintiffs were seriously injured in a workplace accident involving a tile packaging machine. Despite the plaintiffs asserting that original process was properly served on our client, we successfully argued to the court that the purported certified mail receipt was never signed by an agent of our client and, in fact, simply said "COVID-19" on the signature block. The court sustained our objections and dismissed the case as to our client.

## **SIGNIFICANT REPRESENTATIVE MATTERS**

Obtained Defense Verdict in Slip and Fall Arbitration Matter: Plaintiff alleged that she slipped and fell on a wet floor in a check cashing facility in Philadelphia. On cross examination, Plaintiff admitted that she saw the wet floor prior to walking through it twice, slipping and falling on her second trek through the wet floor. She also admitted on cross-examination that she had prior similar injuries. During closing arguments, we argued that the wet floor was open and obvious, Plaintiff assumed the risk by walking through it, and that she required expert testimony to support her causation arguments. We further argued that Plaintiff failed to meet her burden of proof regarding our client's responsibility for maintaining the property. The Arbitration panel agreed with our arguments and entered a defense verdict on behalf of our client.

Obtained Defense Verdict in Slip and Fall Arbitration Matter: Plaintiff alleged that she slipped and fell on a wet floor in her workplace, and brought suit against our clients, the owner and property manager of the building. On the day of the arbitration, Plaintiff introduced, for the first time, a \$70,000 wage loss lien in support of her claims. We successfully argued that the lien and Plaintiff's wage loss claim should be precluded at the arbitration due to her failure to produce the documents in a timely manner. Regarding liability, Plaintiff subpoenaed her employer to testify about who was responsible for maintaining the inside of the premises. On cross-examination, the employer admitted it was their duty to maintain the premises and that our clients were not responsible for the wet floor. The Arbitration panel entered a defense verdict for our clients.

Obtained Defense Verdict in Trip and Fall Arbitration Matter: Plaintiff alleged that she tripped and fell on broken sidewalk in Philadelphia, and brought suit against our client, the owner of the property. On cross-examination, I introduced evidence that Plaintiff fainted rather than tripped and fell, and argued that she required expert testimony to support her damages claims. Plaintiff denied that she fainted and introduced photographs of the broken sidewalk. The Arbitration panel entered a defense verdict in favor of our clients, finding that Plaintiff did not trip and fall on the broken sidewalk.

Obtained Defense Verdict in Rear-End Collision Case: Plaintiff was rear-ended by our client, a bus driver. Through Requests for Admission, we successfully obtained evidence supporting a limited tort defense. At arbitration, we argued that Plaintiff failed to exhaust his PIP benefits policy and, therefore, was precluded from entering any medical bills into evidence. Plaintiff attempted to argue at the arbitration that his injuries breached the "serious injury" threshold, and that he was entitled to non-economic damages. The Arbitration panel found in our favor, ruling that while our client caused the accident, Plaintiff's injuries did not meet the "serious injury" threshold and, therefore, entitled to no damages as a matter of law.

Successfully Asserted Limited Tort Defense at Arbitration in Rear-End Collision Case: Plaintiff alleged that she suffered injury due to a motor vehicle accident caused by our client. For purposes of the Arbitration, we admitted that our driver caused the accident, but that Plaintiff was limited tort and did not breach the serious injury threshold. Plaintiff attempted to argue that she breached the serious injury threshold because her injuries caused her severe hardship with taking care of her two children, each of whom had learning disabilities. On cross-examination, we introduced evidence that Plaintiff had similar pre-existing injuries, which Plaintiff denied. Because of the pre-existing injuries, we argued that Plaintiff required expert testimony to support her causation arguments. The Arbitration panel found that Plaintiff did not breach the serious injury threshold and, therefore, she was entitled only to her economic damages, which were approximately one-third of Plaintiff's lowest pre-arbitration demand.