



Attorneys & Counselors at law

PAUL S. GRUVMAN*
LOUIS P. GIORDANO
CHARLES T. GLAWS

*Also Member New Jersey Bar

61 Broadway, Suite 2715
New York, New York 10006

Telephone: (212) 269-2353
Facsimile: (212) 269-2354
E-Mail: info@g3law.com
www.g3law.com

OUR FIRM

Gruvman, Giordano & Glaws, LLP, a full service defense litigation firm, represents institutions and insureds throughout New York State. The firm specializes in the defense of general liability and professional malpractice actions. Additionally, we have substantial experience handling complex litigation in the areas of toxic tort, labor law and insurance coverage disputes. Our expertise in general liability includes specialized experience successfully defending commercial property owners, business owners, construction companies, product manufacturers, social service agencies and security guard companies. Our practice also includes automobile accident litigation including bodily injury and PIP claims.

Gruvman, Giordano & Glaws, LLP is committed to providing clients with an aggressive defense by pursuing early investigation, vigorous discovery and careful retention of experts. The firm believes that success in litigation goes beyond successful outcomes, but must include cost efficiency at all phases of case handling. The attorneys at Gruvman, Giordano & Glaws, LLP use state-of-the-art office technology, computerized case management and highly trained paralegals to minimize costs while assuring quality legal services.

We have a remarkable legal record and a fine reputation before the bar and Courts for being fair-minded and reasonable while aggressively protecting our clients' interests. Our attorneys are seasoned and effective trial lawyers and litigators dedicated to

defending our clients and to the expeditious and aggressive resolution of suits. Our management style is particularly well-suited to insure a hands-on approach to defending these actions while fostering a collaborative relationship with claims professionals.

The Firm defends both general and professional liability actions. We are dedicated to giving our clients the total fidelity they deserve. The firm strictly adheres to this ethical canon, as cited in the *Disciplinary Rules of the Code of Professional Responsibility*, DR 5-107.B.

The founding Partners have an exceptional defense record. The Firm is committed to the early retention of experts, aggressive investigative procedures and vigorous motion practice. This often leads to early and successful resolution of cases and to overall cost savings. Towards that end, we also maintain a bank of briefs, transcripts and research materials that help us defend cases in a more efficient and cost-effective manner.

We believe that early involvement, continuity and close attorney-client relationships are integral to successfully defending our clients. We have found that it is not beneficial to have a case drag on needlessly. Rather, our goal is the most favorable and expeditious outcome for our clients. We believe that in the long run, this is the most beneficial for all concerned. At the same time, when early dispositions are not possible, we are always fully prepared to defend actions at trial and have enjoyed considerable success in this regard. In fact, the Partners have over one hundred jury trials among them - throughout the Courts of the State of New York.

Furthermore, in the event an appeal is appropriate, the Firm has significant appellate experience in various procedural and substantive areas. Additionally, we can provide insightful advice on the merits of an appeal, bringing to bear our knowledge of the First and Second Departments and the practicalities of sound cost/benefit analysis.

We have access to state-of-the-art technology via laptop PCs. This enables us to securely access entire case files from anywhere at anytime utilizing VPN (Virtual Private Network) technology. Additionally, we can retrieve expert testimony and perform legal and medical research at a moment's notice.

The Partners actively encourage and support ongoing education in the ever-changing medical and general liability fields. In this way, we continue to develop an unmatched familiarity with and legal knowledge of our client's professions and occupations. We have been active in speaking engagements and publishing articles on relevant topics and would welcome the opportunity to continue to share our expertise in our fields of practice.

At Gruvman, Giordano & Glaws, LLP, the Partners will personally undertake a preliminary review of every liability action. As a result of our combined experience and keen analysis, many cases can be dismissed or discontinued at the outset.

PARTNERS

PAUL S. GRUVMAN, ESQ.

Paul received his Bachelor of Arts in Political Science and History from the State University of New York at Stony Brook in 1986. A 1989 graduate of Rutgers School of Law - Camden, Paul received the honor of Best Brief for his treatment addressing the issue of Duty to Warn. Paul gained invaluable experience as a trial attorney at the Kings County District Attorney's Office. As a Senior Assistant District Attorney, Paul focused on the prosecution of high profile, complex cases including homicides and other serious felonies. He also supervised less experienced attorneys in that office. "My six years as an Assistant District Attorney, afforded me the opportunity to work closely with experts in the areas of medicine, forensics, psychology, accident reconstruction and DNA analysis. Fortunately, I was able to successfully transfer this knowledge into the civil arena."

Since leaving the D.A.'s office in 1996, Paul continued to hone his skills as a trial attorney with the law firm of Armienti & Brooks, P.C. Responsible for a large caseload from inception through trial, he has handled many multi-million dollar cases involving premises liability, negligent security and construction accidents in both state and federal court. Paul joined the firm of Dubois, Billig, Loughlin, Conaty & Weisman in July, 1998. As Senior Trial Counsel, his experience as a seasoned litigator handling diverse criminal and civil matters added another dimension of expertise to DBLC&W.

Currently, at Gruvman, Giordano & Glaws, LLP, his primary focus is defending general liability matters and some occasional malpractice actions. Paul is a licensed attorney in the States of New York and New Jersey and is admitted to practice in the United States District Court for the Southern and Eastern Districts of New York and the District of New Jersey. He is a member of The American Bar Association, The New York State Bar Association, The Brooklyn Bar Association, The Defense Research Institute (DRI) and the Defender Association of New York.

LOUIS P. GIORDANO, ESQ.

Louis received his Bachelor of Arts in Economics and Political Science from Binghamton University in 1990. He graduated in the top fifth of his class from Brooklyn Law School in 1993, and subsequently worked for nearly five years as a prosecutor in the Bronx County District Attorney's office. While an Assistant District Attorney, he successfully prosecuted numerous high profile felony cases including homicides. In his last two years as a prosecutor, he further enhanced his trial skills as a senior trial attorney in the Felony Narcotics Bureau. "My experience as a prosecutor has subsequently proved invaluable in the civil sector. In addition to further developing my skills as a trial attorney the position also exposed me to the wonderful diversity that our

city has to offer. The needs of crime victims were as personal and particularized as the cases themselves. Complex civil litigation similarly requires an attorney who can adapt to the individually tailored needs of the client."

After leaving the District Attorney's Office in late 1997, Lou stepped seamlessly into a senior trial position and a subsequent partnership at the Wall Street defense litigation firm, Armienti & Brooks, P.C.. While there, he successfully handled and tried numerous cases for the New York City Transit Authority, the New York City Housing Authority, and nearly a dozen private and public insurance carriers, representing building owners, corporations, small businesses, security firms and individual insureds. Lou has litigated and tried cases in all of the Supreme Courts in the New York Metropolitan area, and has successfully authored and argued his own appellate briefs on cases that he litigated in order to ensure that hard-fought victories at the Supreme Court level were upheld.

Lou has sat as a *pro bono* arbitrator in Civil Court, Kings County in the Small Claims Court Division, is admitted to practice in the United States District Court for the Southern and Eastern Districts of New York, and is a licensed attorney in the State of New York. He is a member of the Brooklyn Bar Association and has worked with the New York City Bar Association in their efforts to assist small businesses in securing S.B.A. and F.E.M.A. funding in the wake of the World Trade Center tragedy.

At Gruvman, Giordano & Glaws, LLP, Lou's primary focus has been defending general liability matters and pharmaceutical malpractice actions for Walgreen's Pharmacies, in addition to handling various regulatory and administrative law matters. He has lectured to risk managers and hundreds of business owners on the legal issues confronting supermarket owners at various client seminars.

CHARLES T. GLAWS, ESQ.

Charles graduated from Tulane University in New Orleans, Louisiana in 1983 earning a Bachelor of Arts Degree in History. Charles obtained his Masters Degree in Comparative Literature from Tufts University in 1985. Working his way through Brooklyn Law School, Charles received his Juris Doctor degree in 1991, winning the Edward Byrne Memorial Prize for integrity in the practice of criminal law and the American Jurisprudence Award for trial advocacy.

After graduation, Charles was sworn in as an Assistant District Attorney in Kings County, where he served in the misdemeanor, grand jury and felony trial bureaus for five years. During that time, Charles acquired significant trial experience, handling the prosecution of high profile robberies, burglaries, arsons and homicides.

In 1995, Charles worked as an associate in the Law Offices of Dominick Porto in a general practice with a focus on commercial litigation and NASD and Securities arbitration.

In 1996, Charles joined the law firm of Armienti & Brooks, P.C., where he became a partner in January, 2000. "While the adjustment to civil practice was substantial, I think the learning curve was significantly reduced by my trial and appellate experience from the D.A.'s office."

At A&B, Charles handled all stages of litigation in myriad negligence actions: automobile, premises liability, negligent security, product liability and lead paint litigation. Over time, Charles gained a level of expertise in labor law/construction accident litigation and insurance coverage disputes, achieving summary judgment for his clients on multi-million dollar cases. He has also conducted and led seminars on the labor law, and has published several articles in his areas of practice.

In addition to Charles' significant trial experience, he has conferenced, briefed and argued over 40 appeals in the First and Second Departments with a remarkable success rate. "The appellate process is the crucible in which you can firmly establish your victories in law. It also provides a legitimate venue to right wrongs suffered by your client."

Charles is licensed to practice throughout the New York State Court system, and is admitted to practice before the United States Supreme Court, the United States Court of Appeals for the Second Circuit, and Eastern and Southern Districts of New York. Charles is a member of the New York County Lawyers Association.

ASSOCIATES

LAUREN K. BOTCHEOS

Lauren graduated summa cum laude from Dartmouth College in 2006, receiving a Bachelor of Arts degree in Psychology. Upon graduating, she was inducted as a member of the Phi Beta Kappa Society.

She received her Juris Doctor from Brooklyn Law School in 2010, graduating cum laude. At Brooklyn Law, she was awarded the distinction of Best Brief in her first year legal writing class for her handling of an appeal in a criminal homicide case. While in school, she interned in the Kings County District Attorney's Office in the Racketeering Division. While interning, she assisted in the prosecution of misdemeanor civil rights and fraud cases. During her final year of law school, she was employed as a law clerk at a plaintiff's firm. In that position, she was able to gain valuable experience in the litigation process from that perspective.

Lauren is a licensed attorney in the States of New York and New Jersey and is admitted to practice in before the Supreme Court of New Jersey and the United States District Court for New Jersey.

Currently, at Gruvman, Giordano & Glaws, LLP, Lauren assists in defending general liability matters. She handles all aspects of litigation including depositions, substantive motion practice, discovery matters and trial preparation including drafting memoranda of law.

OUR RECORD

The aggressive defense afforded by our Firm protects the reputations of its clients and insures that every effort to efficiently and expeditiously resolve cases is undertaken. We have a long history of obtaining dismissals on various matters through defense verdicts and successful Summary Judgment Motions. Even in today's climate, a well-reasoned dispositive motion can eliminate the need for protracted litigation. Additionally, we have a proven track record of obtaining extremely favorable settlements through artful negotiation. Many of these cases have been successfully litigated in Brooklyn and the Bronx, traditionally strong plaintiff's venues. Some examples of our notable results are summarized below.

Paul S. Gruvman

Area: Municipal Liability/Bus Accident

Venue: New York County

Year: 2011

Allegations: The plaintiff was allegedly injured as a result of falling to the ground while walking towards the rear exit door of a bus. The plaintiff alleged that the bus operator violently took a right hand turn while she was walking and thereafter suddenly stopped the bus causing her to sustain primarily soft tissue injuries to her left and right shoulders, left and right knees as well as her neck and back. The accident was not reported until the next day, but she had an independent eye-witness, who corroborated the plaintiff's version of the accident. The bus operator had no knowledge of this accident but was identified the following day by the plaintiff as he waited to relieve a fellow bus driver.

Defense: Despite the seemingly credible corroboration of the eye-witness, the plaintiff's testimony was completely unreliable and completely implausible. Interestingly, although the jury did not find that the plaintiff sustained a permanent or temporary significant loss of use of function of a body part, they did find that she met the threshold for serious physical injury under the New York State No-Fault Law. This was based upon the failure to substantially perform all of her normal and customary activities during the first 90 out of 180 days following the accident. This was certainly surprising given the fact that the plaintiff did not miss any time from work following this accident. Ultimately, this may have been a "nuanced" verdict in order to give the plaintiff some modicum of satisfaction in knowing that they believed she was injured, while not finding any negligence on the part of the defendants.

Result: **Defense Verdict.**

Area: Municipal Liability/Bus Accident

Venue: Queens County

Year: 2010

Allegations: The plaintiff, a sixty-three (63) year old woman alleged that while boarding a bus, she was caused to fall to the floor of the bus as a result of an allegedly sudden and violent starting and lurching. As a result of this fall, the plaintiff sustained various soft tissue injuries, including but not limited to a partial thickness tear to the supraspinatus tendon resulting in a frozen shoulder and ultimately requiring arthroscopic surgery, post-concussion syndrome resulting in post-traumatic headaches, multi-level disc herniations and bulges throughout her cervical and lumbar spine resulting in radicular pain and requiring trigger-point injections.

Defense: Ultimately, the plaintiff's testimony was replete with inconsistencies and certainly lacked credulity. In addition, and most troubling, was the claim by the plaintiff that following her fall, while she lay on the floor screaming and crying in excruciating pain, neither the bus operator nor any of the sixty or so passengers on the bus came to her assistance. During the course of the trial, I attempted to demonstrate to the jury that there was nothing whatsoever unusual about the operation of the bus and certainly nothing which would rise to the level of negligence. Rather, I suggested that the only cause of this accident was the fact that the plaintiff who was carrying a small bag at the time, failed to hold on to any of the numerous grab rails and handles located throughout the bus. As such, when the bus began its normal movement, not at lightning speed as suggested by the plaintiff, she merely lost her balance and fell. This dynamic situation clearly felt sudden and violent to the plaintiff who was in the process of falling and thereafter was in extreme pain. However, to the outside observer it was nothing other than the normal movement of the bus while leaving a stop. In that regard, I pointed to the fact that no one else made any complaints or fell from either a seated or standing position and as such the plaintiff lacked objective corroboration of her singular characterization of the nature of the accident.

Result: **Defense Verdict.**

Area: Municipal Liability/Subway Accident

Venue: New York County

Year: 2010

Allegations: The plaintiff, a career postal worker alleged that he was negligently struck by a subway train resulting in catastrophic injuries including but not limited to a traumatic amputation of the plaintiff's leg requiring multiple revisions, leaving him with an above-the-knee amputation as well as several fractures of his skull and orbital area resulting in subdural hematomas and hemorrhages and claims of cognitive deficits including memory loss.

Defense: In the instant matter, there was certainly evidence suggesting that this accident was entirely caused by the plaintiff's voluntary and intentional intoxication and/or his choice (for whatever reason), to walk off of the platform and into the path of an oncoming train. However, this case ultimately boiled down to a technical analysis of the subject train's stopping distance along with issues of visibility and conspicuity as well as the perception/reaction time of the operator under the circumstances presented to him. At the end of the day, the jury carefully and thoughtfully assessed the evidence presented and ultimately rendered a verdict which was, in my opinion, consistent with all of the good and credible evidence presented.

Result: **Defense Verdict.**

Area: Municipal Liability/Subway Accident

Venue: Queens County

Year: 2010

Allegations: Plaintiff, a sixty-two (62) year old male alleged that he was caused to trip and fall over a raised surface on the platform of a train station. The plaintiff variously described this surface as having a height differential of between three and five inches and as being comprised of cement, wood and/or metal. As a result of this fall, the plaintiff sustained injuries to his face, knee and right wrist. Ultimately, the plaintiff alleged that he suffered a severe sprain of the right hand resulting in ulnar nerve neuropathy of the right hand.

Defense: Initially, we were successful in precluding plaintiff's notice witness who was prepared to testify that he was familiar with the subject "defect" as it had been present on the platform for several years, as not having been properly disclosed. Thereafter, during the course of the trial, our strategy was to call into question the plaintiff's veracity as a witness by highlighting various inconsistencies as well as untruthful statements previously given under oath. However, we were faced with the very sympathetic plaintiff's purported explanation (revealed only during re-direct examination), that the plaintiff was illiterate, and thus his inability to read led to his failure to correct misinformation provided during the course of discovery. Fortunately, despite any feelings of sympathy or empathy for the plaintiff, the jury was able to follow the judge's instructions on the law and agreed with our arguments that if indeed there was a height differential, it was certainly trivial and/or de minimis in nature and as such, did not render the platform an unsafe condition.

Result: **Defense Verdict.**

Area: Labor Law/§240(1)/Appeal
Venue: First Department
Year: 2010
Issues: Whether a three step “movable” wooden staircase was an enumerated safety device or the functional equivalent of an enumerated safety device so as to fall under the protections of the Labor Law, where the collapse of said device would constitute a prima facie violation of the so-called Scaffold Law.

Result: **The First Department modified the lower Court Order, which had denied plaintiff’s motion for partial summary judgment on his Labor Law §240(1) claim and upon search of the record, granted summary judgment dismissing this claim.** We successfully argued that the subject three step wooden stairway was a regular and permanent means of access between two parts of the premises and not a tool, device or piece of safety equipment employed solely to provide access to an elevated worksite and thus did not fall within the ambit of the extraordinary protections afforded by the New York State Labor Law.

Area: Municipal Liability/Bus Accident – Wrongful Death
Venue: Bronx County
Year: 2009
Allegations: This wrongful death action stemmed from an accident wherein it was alleged that the plaintiff, a then 81 year old Holocaust survivor was forcibly struck due to the alleged negligence of a bus operator. The decedent suffered multiple bodily injuries eventually resulting in her death. Prior to succumbing to her injuries, the plaintiff decedent sustained massive head trauma with skull fractures and visible brain matter. This was in addition to an open fracture of the right radial ulnar with severe deformity and contusions of the upper arm and forearm. Significantly, in addition to conscious pain and suffering, the plaintiff also alleged a claim for fear of impending death and pre-impact terror.

Defense: Despite receiving several adverse rulings on liability, which we believe led to a finding of negligence and which would no doubt have resulted in an appeal, we focused our attention on the lack of objective evidence of conscious pain and suffering or pre-impact terror.

Result: At the conclusion of the unified trial, following live testimony from eight witnesses, the jury returned an award of approximately \$200,000. This was an extremely good outcome, particularly in light of the Court’s rulings and plaintiff’s counsel’s request during summations for a damages verdict of over \$1,500,000.

Area: Municipal Liability/Subway Accident
Venue: Kings County

Year: 2008

Allegations: Plaintiff, age 50, alleged that while exiting a NYCTA subway car, the conductor caused the car doors to close upon her, causing her to fall and sustain various injuries including a fractured ankle, ligament tears and a facial laceration. The plaintiff alleged that there were no announcements or warnings prior to the closing of the doors by the improperly trained and supervised conductor.

Defense: We argued that the plaintiff entirely failed to present any evidence to demonstrate that there was anything unusual or improper about the operation of the train, including the closing of the doors by the conductor. Rather, we introduced evidence that the plaintiff, an experienced commuter, was intoxicated at the time of her accident, thus causing her fall. In this regard, we called the responding police officer as well as an emergency medical technician and physician's assistant to provide testimony with regard to their observations (past recollection recorded) and plaintiff's admissions regarding her consumption of alcohol prior to her fall. At trial, plaintiff's credibility was called into serious question having admitted to providing false testimony at her prior deposition regarding the quantity of alcohol consumed.

Result: **Defense Verdict.**

Area: Municipal Liability/Automobile Accident

Venue: Kings County

Year: 2007

Allegations: Plaintiff, age 23, alleged that while operating a company van as a field service technician for Cablevision, he was unable to stop in time or take evasive action as a tractor trailer being operated by a Transit Authority driver "fishtailed" into his lane of travel just as he approached the intersection. It was raining at the time and the ground was slippery. As a result of the accident, the plaintiff sustained various soft-tissue injuries including a tear to the lateral meniscus requiring arthroscopic surgery and multiple lumbar herniations.

Defense: In this bifurcated trial, we argued that the plaintiff was driving at an excessive rate of speed for the prevailing weather conditions, particularly in light of the rather sharp curve in the plaintiff's direction of travel as he approached the intersection. In addition, we used photographs of the damage to the trailer as well as the debris pattern left by the van to demonstrate the plaintiff's high rate of speed at the time of the impact. Although the Court did not allow admissions by plaintiff in the police accident report (past recollection recorded) or medical records into evidence, the plaintiff's implausible denial of same likely assisted in obtaining a favorable verdict.

Result: **Defense Verdict.**

Area: Municipal Liability/Subway Staircase Accident
Venue: New York County
Year: 2006
Allegations: Plaintiff, age 49, alleged that while descending a Transit Authority staircase, she stepped into an indentation or a hole adjacent to a missing metal stair tread which caused her to lose her balance and tumble down the stairs. As a result of the fall, she sustained various injuries including a bimalleolar fracture of the ankle requiring open reduction with internal fixation and a dislocation to the patella. The Plaintiff alleged *inter alia*, that the stairway had been repaired within six months of the accident and the concrete patch must have eroded over time, thereby causing the hole and that the nature of the defect was such that the NYCTA should have observed and remedied that condition.
Defense: In this unified trial, in addition to raising elements of plaintiff's comparative negligence, we argued that although the plaintiff fell on the subject staircase, there was no competent evidence to demonstrate any notice on the part of the Transit Authority of this alleged defect. This was particularly so where the plaintiff had no photos of the defect prior to a subsequent renovation to said staircase and where she never returned to the scene following this un-witnessed accident. Additionally, NYCTA witnesses and maintenance and repair records failed to reveal any evidence supporting the plaintiff's contention as to the presence of the hole or the alleged missing stair tread.
Result: **Defense Verdict.**

Area: Municipal Liability/Subway Car Accident
Venue: Queens County
Year: 2006
Allegations: The plaintiff, a then 83 year old woman alleged that while a passenger on a subway car, she fractured her femoral neck requiring a right-sided hip replacement when as she claims the subway car suddenly lurched forward and then stopped abruptly causing her to be violently precipitated to the ground. The plaintiff was ambulating with the assistance of a cane at the time of the accident following bilateral total knee replacements resulting from osteoarthritis. Further she was admittedly not holding on to any poles at the time the car began to move. Although there was no evidence of any mechanical defects on the subway car which could have accounted for the movement of the train, plaintiff's counsel suggested several possible, hypothetical explanations for this alleged violent lurching/stopping of the train based upon operator error.
Defense: We contend that there was no objective evidence to corroborate the plaintiff's subjective characterization of the lurch/stop to suggest that it was anything other than the normal operation of the train.
Result: **Defense Verdict.**

Area: Municipal Liability/Trip and Fall
Venue: Queens County
Year: 2005
Allegations: This matter stems from an incident wherein the plaintiff, a then 40-year old male sustained a bi-malleolar fracture to his ankle requiring open reduction with internal fixation when he tripped and fell on a station platform. It is alleged that the plaintiff tripped over a defective condition consisting of a raised expansion joint on said platform.
Defense: Unfortunately, the Transit Authority Station Supervisor testified that the Authority as on notice of what she characterized as a dangerous tripping hazard for many months prior to plaintiff's accident, without affecting any repairs. However, a vigorous cross-examination of the plaintiff revealed some criminal contacts, inconsistencies with regard to prior injuries and certain discrepancies with regard to the precise location of the subject expansion joint which we claimed was an open and obvious condition.
Result: **This probable liability case settled for the total sum of \$55,000 immediately prior to summations due in large part to the aforementioned cross-examination developed as a result of thorough investigation. Further, the settlement also followed an eventual reduction to plaintiff's demand, which was increased from \$450,000 to \$750,000 at the commencement of jury selection.**

Area: Municipal Liability/False Arrest
Venue: Queens County
Year: 2004
Allegations: An elderly, retired school teacher who was placed under arrest, issued five summonses and subsequently released alleges false arrest/unlawful imprisonment, malicious prosecution, intentional infliction of emotional distress, violation of civil rights and assault and battery consisting of an aggravation of a pre-existing shoulder injury.
Defense: In order to sustain action for false imprisonment the plaintiff must prove that the defendant: intended to confine him, that the plaintiff was conscious of the confinement, that the plaintiff did not consent to the confinement and finally, that the confinement was not otherwise privileged. We met our burden of proving legal justification as an affirmative defense by establishing that the arrest was based on probable cause which validates the arrest and relieves the defendant of liability. Here the plaintiff was stopped as he was preparing to drive through a bridge toll booth in a direction opposite to that of oncoming traffic.
Result: Following the submission of a lengthy trial memorandum of law and extensive argument on all of plaintiff's allegations; all claims with the exception of the unlawful detention and battery claims were discontinued. Thereafter, facing the very real probability that the Court was going to

direct a verdict in favor of the Public Authority, the **plaintiff accepted a minimal settlement which fell well short of covering their costs.**

Area: Toxic Tort – Lead Paint
Venue: Kings County
Year: 2003
Allegations: Low blood lead levels attributable to the ingestion of lead paint dust from insured's apartment lead to development of mild to moderate retardation in infant plaintiff.
Defense: There is no generally accepted view among the scientific community that mild to moderate retardation is caused by exposure to low/mild lead levels attributable to the infant plaintiff herein and no generally accepted methodology in the scientific community for coming to that conclusion from currently known facts. Therefore, plaintiff's experts should have been precluded from otherwise testifying as to their singular and novel theory. Without this testimony, plaintiff cannot establish causation and therefore dismissal was appropriate.
Result: Despite the inappropriate denial of our request for a Frye Hearing and ultimately the preclusion of the plaintiff's experts by the Court; effective cross-examination of the infant plaintiff's maternal grandmother/guardian which revealed various inconsistencies as well as a potentially fraudulent test result led to a **settlement following plaintiff's reduction of their demand from one million dollars to one hundred twenty-five thousand dollars.** Note that this settlement – during trial was reached immediately following a seven-figure verdict on substantially similar facts before the same Judge and with the same plaintiff's firm.

Area: Dental Malpractice
Venue: Queens County
Year: 2001
Allegations: Plaintiff alleged that the defendant failed to properly diagnose her periodontal condition and rendered improper and defective treatment including ill-fitting crowns and bridges causing her to require further tooth extraction and the placement of dental implants.
Defense: The defendant properly diagnosed her periodontal condition, recommended an appropriate course of treatment and was in the middle of the process when the plaintiff discontinued treatment.
Result: Although the jury found that the defendant failed to timely refer her to a periodontal specialist, they found the **plaintiff forty (40) per cent comparatively negligent and returned a very minimal judgment.** This matter was subsequently settled by the plaintiff for an even lesser amount, rather than endure a protracted appellate process.

Area: Premises Liability
Venue: Kings County
Year: 2000
Allegations: Plaintiff, an eighty year old female, allegedly tripped and fell over a raised threshold exiting defendant's garage. She sustained a broken proximal phalanx requiring surgery and external fixation.
Defense: The defect, if any, was open and obvious and the plaintiff was in the best position to have avoided the accident since she was aware of the threshold as she entered moments earlier.
Result: **The jury returned a verdict finding the plaintiff eighty (80) per cent comparatively negligent for the accident.** The Court on motion of the plaintiff, ordered a new trial unless the parties agreed to a fifty-fifty split of liability. We took an appeal and the Appellate Division, Second Department reversed and reinstated the verdict.

Area: Negligent Security
Venue: Kings County
Year: 2000
Allegations: Plaintiff was stabbed in chest by fellow tenant of residential apartment building where insured provided security services.
Defense: Plaintiff instigated assault and is not third-party beneficiary to security contract. Further, intentional criminal act of fellow resident with no prior history of violence is not foreseeable and breaks the causal nexus between any alleged negligence and the injury sustained.
Result: **Dismissal via Summary Judgment Motion.**

Area: Premises Security/Negligent Security
Venue: Nassau County
Year: 1999
Allegations: Individual and subrogation action involving an alleged burglary at a commercial location where insured provided building security. Damages included an alleged loss of intellectual property with a value in excess of one million dollars and a subrogation payout of several hundred thousand dollars.
Defense: Security guard company fully discharged its contractual obligations to owner. Plaintiff was not a third-party beneficiary of said contract and thus, had no standing to sue. Moreover, there was no evidence of any negligence on insured's part, and certainly no indication that their actions were a proximate cause of the burglary.
Result: **Dismissal via Summary Judgment Motion.**

Area: Premises Liability
Venue: New York County
Year: 1999
Allegations: Plaintiff sustained serious injuries following a trip and fall over an uneven raised tree grating on a New York City sidewalk opposite a commercial/residential building where insured ran a health clinic.
Defense: First, tree and surrounding grating was not responsibility of insured but rather City and/or landlord. Second, even assuming arguendo, insured had any obligations with regard to said tree, defect, if any was open and obvious.
Result: **Dismissal via Summary Judgment Motion.**

Area: Negligent hiring, training & supervision of security guard
Venue: Queens County
Year: 1999
Allegations: Teenage plaintiff alleges that defendant was negligent in that their security guard shot him in the stomach merely because he was horsing around with friends and would not listen to the guard's instructions to stop and get on the ground.
Defense: The defendant, security guard was acting within the scope of his duties, when while acting in self-defense, he shot the knife wielding plaintiff. Further, that the defendant, security guard company fully complied with the law and did a thorough background check of the guard, who had no prior incidents which would raise any concern over this type of activity.
Result: Following jury selection, this matter **settled for a nominal amount** after further research revealed that this security guard was "grandfathered out" of a new provision in the Security Guard Act. The plaintiff had alleged that the lack of compliance with said provision was evidence of the defendant's negligence.

Area: Labor Law
Venue: Bronx County
Year: 1998
Allegations: Plaintiff allegedly sustained serious back injuries resulting in the need for future surgery when he fell from a scaffold. The scaffold Company was previously dismissed from the case, having been granted Summary Judgment.
Defense: As the general contractor, and without the scaffold company to blame, we were forced to argue that the party in the best position to direct, control and supervise the plaintiff was the third-party defendant subcontractor (plaintiff's employer). Prior to trial we had extended an offer in the area of \$350,000 to settle our claim with the plaintiff.

Result: Despite a directed verdict for the plaintiff on liability, they, along with the owner and employer all pointed their fingers at the general contractor, whom they argued had overall responsibility for safety at the worksite including the scaffold in question. The jury returned a verdict in plaintiff's favor in excess of one million dollars. However, they determined that the **insured's (general contractor) liability was limited to ten (10) per cent.** Thus, our share after trial was significantly less than our pre-trial offer.

Area: Labor Law
Venue: Kings County
Year: 1997

Allegations: Plaintiff is alleged to have sustained massive back injuries requiring spinal fusion following a fall from skids placed on a scaffold.

Defense: Plaintiff's injuries, as alleged, occurred prior to the fall - as he twisted his back on the skid.

Result: Hung jury (**4-2 for a defense verdict on causation**). **This matter subsequently settled for a considerable discount**, for an otherwise strict liability incident

Area: Premises Liability
Venue: New York County
Year: 1997

Allegations: Negligent security at local pool hall allowed several gun-toting gang members to riddle the interior with gunfire causing plaintiff to sustain several gunshot wounds resulting in various permanent injuries including a drop foot and a bullet lodged in his abdomen.

Defense: Insufficient evidence of prior violent activity at premises as well as the argument that the incident was an unforeseeable, targeted hit, by a notorious Asian youth gang. Note that several Motions in Limine kept several past incidents of violent activity at the pool hall out of evidence at trial. Further, aggressive cross examination of plaintiff's purported security expert left several holes in the plaintiff's case.

Result: An **extremely favorable settlement** was reached prior to summations; based in large part on the above trial strategy.

Area: Negligent Security
Venue: U.S.D.C. Southern District
Year: 1997

Allegations: Negligent security at a construction site allowed a masked intruder to shoot the plaintiff in the stomach causing him to sustain various abdominal injuries.

Defense: Specific nature of assailant's words and actions resulted in a defense of a pre-meditated targeted hit - which served to break the causal nexus between the alleged negligence of the owner and the intentional actions of the criminal assailant.

Result: Following the submission of a lengthy memorandum of law detailing this defense, the plaintiff accepted a **reasonable settlement** offer during their case in chief.

Area: Labor Law

Venue: New York County

Year: 1997

Allegations: Plaintiff, building's Superintendent, sustained various injuries as he fell from a step-ladder while installing a curtain rod. The plaintiff passed away prior to the trial from unrelated causes.

Defense: The installation of the curtain rod was merely cosmetic in nature and did not constitute any material alteration of a building fixture.

Result: Based upon our persuasive arguments, the plaintiff accepted a **reasonable settlement** offer prior to the Court's ruling on the issue or the jury's verdict.

Area: Negligent Security

Venue: Bronx County

Year: 1996

Allegations: Improperly closing door allowed intruder to gain access and shoot plaintiff causing partial paralysis.

Defense: No prior evidence of criminal activity at premises. No expert testimony to corroborate plaintiff's allegations

Result: Following jury selection and several motions in limine, this matter was **settled for a nominal amount.**

Louis P. Giordano

Area: Municipal Liability/Automobile

Venue: Queens County

Year: 2005

Allegation: New York City Transit Authority truck ran over a 16 year old boy on a major New York thoroughfare, causing massive injuries, including skull fracture, necessary craniotomy, fractured femur, fracture sinus cavity and lacerated kidney.

Defense: Argued that even though the elderly NYCTA driver may not have been as attentive as he should have been, that the boy's conduct in crossing the

street suddenly outside of a designated crosswalk as the sole proximate cause of the accident.

Result: **Defense Verdict** at trial.

Area: Pharmaceutical/Medical Malpractice

Venue: Bronx County

Year: 2004

Allegation: Excessive doses of Prednisone, issued with purported inadequate warning labels/information sheets led to avascular necrosis and bilateral hip replacement in 26 year old man.

Defense: Argued that as a matter of law, New York State does not recognize a pharmacy's affirmative duty to provide warnings for rare side effects where a customer's prescriptions are properly filled and verified in accordance with issuing doctor's instructions.

Result: **Dismissal** upon summary judgment motion

Area: Elevator Accident/Premises Liability

Venue: New York County

Year: 2003

Allegation: Elevator mechanic contends he fell down an elevator pit while servicing an elevator cab due to improper pit ladder installation and code violations by elevator consultants who had rehabilitated the ladder, cab and shaft several years earlier.

Defense: Successfully rebutted applicability of OSHA violations and ANSI code violations to our contractor client, and precluded bulk of testimony anticipated from plaintiff's elevator expert.

Result: **Dismissal** during trial with no owed contribution/indemnity

Area: Premises Liability/Municipal Law

Venue: Richmond County

Year: 2002

Allegations: NYCTA bus inexplicably failed to stop at a well-lit, designated bus stop and instead caused a passenger to alight in an unlit, dangerous area where she fell and severely fractured her hip. The bus operator, despite allegedly observing the incident, subsequently drove away without aiding the injured plaintiff.

Defense: Bus operator, despite acting reprehensibly and while utilizing poor judgment, nonetheless met narrow legal requirements.

Result: **Defense Verdict** after plaintiff refused substantial settlement offer.

Area: Labor Law
Venue: Kings County
Year: 2002
Allegations: Union laborer fell down improperly secured elevator shaft suffering complete and permanent paralysis.
Defense: Supervision and control of worker's activities were shared by many.
Result: \$350,000 contribution to \$9,000,000 settlement where court had originally suggested a seven-figure contribution from client.

Area: Subway Accident
Venue: New York County
Year: 2001
Allegations: Sudden, jerking stop by train operator in violation of training and internal guidelines resulted in passenger falling and fracturing hip.
Defense: Reasonable conduct by train operator, and successful preclusion of internal guidelines from evidence.
Result: Defense Verdict.

Area: Premises Liability
Venue: Rockland County
Year: 2001
Allegations: Slip and fall on overly-waxed floor
Defense: Issues of notice and speculation.
Result: **Dismissal via Summary Judgment Motion.**

Area: Pedestrian Knockdown
Venue: New York County
Year: 2001
Allegations: Bus ran over pedestrian *in a crosswalk* where pedestrian had the "walk" sign, resulting in severe de-gloving injury to right leg requiring multiple surgeries and skin grafts.
Defense: Plaintiff's inattentiveness despite being in a crosswalk was a contributing factor to the accident; advances in plastic surgery as attested to by defense expert make permanency of injury questionable.
Result: 30% finding of comparative negligence on the part of the plaintiff, resulting in jury award substantially below pre-trial offer.

Area: Premises Liability, Elevator Accident
Venue: New York County
Year: 2000
Allegation: Security guard directed weekend repairman to use derelict freight elevator

which broke down and trapped workman in abandoned building, causing him to have to leap to relative safety, resulting in severe back trauma which required multiple surgeries.

Defense: Lack of causal nexus between insured's conduct and the incident.
Result: **Defense Verdict.**

Area: Premises Liability/Intentional Tort

Venue: Supreme Court, Kings County

Year: 2000

Allegation: Deliveryman shot outside commercial bottling plant where armed insured's security guards admitted the shooters, observed the incident, and failed to intercede or assist the plaintiff.

Defense: Argued no legal duty for insured to guarantee plaintiff's safety.

Result: Dismissal via motion in lieu **of Answer**, affirmed on appeal by Appellate Division, Second Department after oral argument. Leave subsequently denied by Court of Appeals.

Area: Automobile/Permissive Use

Venue: Kings County

Year: 1999-2000

Allegation: Insured voluntarily loaned car to daughter, which was subsequently involved in hit-and-run accident with plaintiff, resulting in herniated discs.

Defense: Defendant rebutted Permissive Use Presumption of VTL § 388.

Result: **Defense Verdict**, affirmed by Appellate Division, Second Department.

Area: Automobile/Pedestrian Knockdown

Venue: Kings County

Year: 1999

Allegations: Transit Authority bus struck plaintiff pedestrian due to driver inattentiveness.

Defense: Aggressively sought and obtained testimony from otherwise disinterested independent witnesses who stated that plaintiff had stepped off of the curb at the last moment giving the driver little opportunity to stop.

Result: **Defense Verdict.**

Area: Premises Liability

Venue: Kings County

Year: 1998

Allegation: Improper snow removal by commercial tenant causing a deliveryman to slip and fall.
Defense: Lack of Notice, successful cross-examination at trial of meteorological expert resulting in preclusion of expert opinion.
Result: Dismissal on Motion at close of evidence.

Area: Automobile
Venue: Bronx County
Year: 1998
Allegation: Defendant's auto stopped on bridge at night without lights or attempts at notifying oncoming vehicles resulted in multiple car collision.
Defense: Emergency doctrine.
Result: Defense Verdict.

Charles T. Glaws

Area: Municipal Liability/Slip and Fall
Venue: Kings County Supreme Court
Year: 2008
Allegation: Plaintiff, a 47 year old radiology technician from Ghana alleged that he slipped and fell on a worn, loose and wobbly metal stair tread inside defendant's subway station. Plaintiff sustained a wrist fracture and tendon damage. Plaintiff's friend, also from his hometown in Ghana, gave eyewitness and notice evidence.
Defense: None of the defective characteristics alleged ("worn, loose and wobbly") were evident in plaintiff's photograph of the stairway. Also, cross-examination of plaintiff revealed that plaintiff's prior testimony and pleadings noted his fall at varying locations on the stairway ("12th step, 13th step and 7th step" from bottom), which was inconsistent with his trial testimony that he had fallen from the 10th step.
Result: Defense Verdict.

Area: Municipal Liability/Trip and Fall
Venue: Queens County Supreme Court
Year: 2007
Allegation: Plaintiff, a 53 year old hospital laboratory technician, claimed that she tripped and fell on cracked and broken pavement on a walkway inside defendant's subway station. Plaintiff suffered a fractured patella requiring open reduction/internal fixation surgery.

Defense: Emergency Room records included a statement by plaintiff to her doctor that she fell after a man pushed her and she then tripped over his shoe. Since the doctor that signed this statement resided in Alabama, in order to obtain jurisdiction over her, I filed for and received an open commission, and then subpoenaed the doctor for her testimony. I took her video recorded deposition, properly laying the foundation for the ER record to go into evidence as an admission against interest and played it for the jury.

Result: Defense Verdict.

Area: Municipal Liability/Bus Accident

Venue: Kings County Supreme Court

Year: 2007

Allegation: Plaintiff, a 42 year old passenger on defendant's bus, claimed that the bus collided with the rear of a car in stop and go traffic causing her to fall and suffer a torn meniscus and torn femoral condyle of the knee requiring surgery and physical therapy.

Defense: Bus operator was traveling 3 to 5 mph in stop and go traffic before vehicle driven by co-defendant unexpectedly cut in front of him causing bus operator to apply brakes resulting in plaintiff's fall. Bus operator testified that no collision occurred. No damage was found to either vehicle. Defense called a passenger who corroborated bus operator's version.

Result: Defense Verdict.

Area: Municipal Liability/Subway Train Accident

Venue: Kings County Supreme Court

Year: 2007

Allegation: Plaintiff, a 71 year old woman, alleged that the subway train conductor prematurely closed the train doors on her, knocking her to the floor and causing her to sustain a fractured ankle.

Defense: Conductor followed procedure in allowing ample time for passengers to board before closing doors. Further, climatological records prove were offered to prove substantial rainfall that morning suggesting that the wet floor plaintiff described was the likely cause of her accident. Finally, cross-examination of plaintiff with her deposition testimony that both feet were inside the car when the door closed, revealed an inconsistency with her trial testimony that one foot was still on the platform when the doors closed.

Result: Defense Verdict.

Area: Municipal Liability/Subway Train Accident

Venue: Kings County Supreme Court

Year: 2007

Allegation: Plaintiff, a 68 year old woman, alleged that the subway train's engineer and conductor closed the train doors and started the train too quickly, knocking her to the floor of the train causing her a fractured wrist and injuries to her back.

Defense: No one else in the filled subway car either fell or complained. Further, a post-accident inspection of the subject train car finding no mechanical/electrical problems confirmed the testimony of train personnel that plaintiff had ample time to board and either grab a handrail or take a seat.

Result: **Defense Verdict.**

Area: Municipal Liability/Bus Accident

Venue: Kings County Supreme Court

Year: 2006

Allegation: Plaintiff, a 75 year old woman, was a passenger on a New York City bus who claims the bus stopped, opened its doors, and abruptly started again, surprising plaintiff and causing her to fall to the floor of the bus. Plaintiff suffered a severe hip fracture requiring hospitalization and surgery.

Defense: Bus Operator testimony about the interlock system making movement of the bus with doors open impossible, and eyewitness testimony from fellow customer that ride was smooth and that plaintiff fell in aisle because she was not holding on to available handrails on the seatbacks.

Result: **Defense Verdict.**

Area: Municipal Liability/Bus Accident

Venue: Kings County Supreme Court

Year: 2006

Allegation: Plaintiff, a 41 year old home health aide, was a passenger on a New York City bus who slipped and fell as she exited the bus. Plaintiff claimed that short stop on the bus caused her to fall and suffer back injuries.

Defense: Testimony from triage nurse in E.R. forming the basis for admission of the E.R. record stating that plaintiff was "pushed" by a fellow passenger, causing her fall and injuries.

Result: **Defense Verdict.**

Area: Municipal Liability/Slip and Fall

Venue: Kings County Supreme Court

Year: 2005

Allegation: Plaintiff, a 42 year old photo-studio editor, slipped and fell on a subway station staircase, and suffered a bi-malleolar fracture of her left ankle requiring open reduction, internal fixation surgery. Plaintiff alleged that a crack and missing concrete from the stair caused her to slip and fall.

Defense: Trivial defect and proximate cause.
Result: **Defense Verdict.**

Area: Municipal Liability/Slip and Fall
Venue: Queens County Supreme Court
Year: 2004
Allegation: Plaintiff, a 34 year old environmental lawyer, claims she slipped and fell on cracked subway stairs, landing on her back, causing a herniated disc at L5-S1 and permanent disability.

Defense: Lack of constructive notice, and trivial defect.
Result: **Directed Defense Verdict** for plaintiff's failure to provide evidence that the Transit Authority had constructive notice of the defect. After dismissal, and in the presence of plaintiff's counsel, the entire jury stated that they were prepared to issue a defense verdict.

Area: Municipal Liability/Bus Accident
Venue: Kings County Civil Court
Year: 2004
Allegation: Plaintiff, an elderly woman traveling on a Transit Authority bus, claims that the bus operator was negligent in stopping short, causing plaintiff to fly forward and strike the seat in front of her causing serious injuries. Plaintiff claimed a herniated disc in the cervical spine, chronic pain and restricted range of motion.

Defense: Plaintiff failed to meet her burden of proving that the bus operator acted negligently in operating the bus. Specifically, plaintiff could not say why, or for what reason the bus stopped short. Defendant was precluded from offering evidence that the bus driver had been cut off by a speeding truck.

Result: **Defense Verdict.**

Area: Labor Law/Construction Accident
Venue: Bronx County Supreme Court
Year: 2004
Allegation: Plaintiff, a demolition laborer, was seriously injured when an 11 foot, interior wall he was taking down fell on top of him. Plaintiff sued the owner of the construction site and the site safety manager, alleging common law negligence and violations of Labor Law §§ 240(1) and 241(6).

Defense: Our firm represented the site safety management company. On motion for summary judgment, we argued that the site safety manager is not an "owner, general contractor, or their agents" for purposes of Labor Law application. Further, we argued that the collapsing wall did not give rise to

liability under Labor Law § 240(1), since such was not among the height-related risks the statute was enacted to protect against.

Result: Dismissal of all claims against client via Summary Judgment

Area: Labor Law/Construction Accident

Venue: Bronx County Supreme Court

Year: 2004

Allegation: Plaintiff, a 20 year-old carpenter, fell out of a second-story window while performing window-framing as part of a renovation of a City school building. Plaintiff sustained numerous fractures and related injuries resulting in hospitalization, numerous surgeries and permanent pain and limitation. Plaintiff sued the owner, general contractor, window framing sub-contractor and site safety manager for common law negligence and violations of Labor Law § 240(1).

Defense: Our firm represented the site safety management company. On motion for summary judgment, we argued that the site safety manager is not an "owner, general contractor, or their agents" for purposes of Labor Law application. Further, we argued that our client had reasonably and professionally discharged its duty to monitor site safety and report to the general contractor on all safety issues, as evidenced by a report delivered three days prior to the accident that "all workers at window openings use harnesses and life-lines".

Result: Dismissal of all claims against client via Summary Judgment

Area: Labor Law/Product Liability

Venue: Kings County

Year: 2002

Allegation: Plaintiffs, co-workers for an exterior masonry/waterproofing company, were left dangling by their lifelines at a height of ten stories, after the suspended scaffolding from which they were working fell free from its pulley lines. Plaintiffs sued under Labor Law § 240 for serious personal injuries.

Defense: Common law indemnification against the manufacturer of the scaffolding hoist and the plaintiffs' employer.

Result: Summary judgment on claims over for common law indemnity against the manufacturer and the employer. The case settled at trial for \$2.1 million, with the insured contributing \$0.

Area: Municipal Liability/Automobile Accident

Venue: Kings County

Year: 2001

Allegations: Plaintiff, a New York City police officer, was a passenger in a radio motor patrol car in pursuit of a stolen vehicle. Plaintiff's car collided with a commuter bus owned by the New York City Transit Authority, causing the police car to careen into a highway divider resulting in plaintiff's spinal injuries.

Defense: Eliciting testimony and introducing documentary evidence from the "sprint" report, we were able to demonstrate that since the arrest for the car theft was made at a location in the opposite direction from where the police car had been traveling, the police car caused its own accident by trying to make a u-turn through a highway divider opening. Additionally, we argued successfully that the reactions of the bus operator, given the dangerous angle taken by the police car, were reasonable under the circumstances.

Result: **Defense Verdict.**

Area: Automobile/Pedestrian Knockdown

Venue: New York County

Year: 2001

Allegations: Infant plaintiff was struck by a livery cab while crossing the street on his way to school. Plaintiff sued the driver, the owner of the cab, and our client, the dispatch company for negligent ownership, operation and maintenance of a vehicle.

Defense: No evidence of ownership, duty or negligence.

Result: **Dismissal via Summary Judgment** of all direct and cross-claims asserted against the insured.

Area: Labor Law/Damages/Appeal

Venue: First Department

Year: 2001

Issues: Damage awards for pain and suffering, and lost earnings. Plaintiff, an iron-worker on the construction of the Arthur Ashe Tennis Stadium, fell from an "1" beam after failing to re-attach his safety line, and sustained bilateral calcaneal fractures and a fractured vertebra.

Result: Judgment Modified. Overall reduction of pain and suffering awards from \$1.2 million to \$900K; reduction of lost earnings from \$600K to \$140K.

Area: Labor Law

Venue: Kings County

Year: 2000

Allegation: Plaintiff and plaintiff's decedent, employees of elevator subcontractor on building renovation site, fell eight stories from a platform over an elevator shaft, resulting in the death of one worker and the severe injuries of the other. Plaintiffs sued the owner, general contractor and various sub-

contractors alleging violations of labor law §§ 240 and 241(6), and common law negligence.

Defense: Lack of evidence of negligence.

Result: **Dismissal via Summary Judgment** of all direct and cross-claims asserted against insured/masonry subcontractor.

Area: Premises Liability/Trip and Fall

Venue: Kings County

Year: 2000

Allegations: Plaintiff, a woman in her seventies, while vacationing as a guest at a summer bungalow colony in upstate New York owned and operated by my client, tripped and fell on the grounds of the premises sustaining a bimalleolar fracture to her ankle requiring surgery. Plaintiff claimed that the pathway upon which she had fallen was broken, cracked and otherwise improperly maintained. Additionally, plaintiff alleged inadequate lighting contributed to her accident.

Defense: The pathway was reasonably safe and sufficiently maintained for its intended purpose as a country path. Careful cross-examination of the plaintiff, with tactical use of her deposition testimony, also allowed the jury to conclude that there was adequate natural and artificial light over the pathway.

Result: **Defense Verdict** for insured, property owner. Notably, we were able to successfully defend the verdict on appeal on a complex evidentiary issue where the court first admitted, then withdrew from evidence a copy of the emergency room record listing plaintiff's accident as occurring "on the porch". The Second Department affirmed citing our arguments and law in its decision, stating that the Court's curative instructions were sufficiently prompt and understandable to avert any potential unfairness to plaintiff.

Area: Negligent Security/Striking of Answer/Appeal

Venue: First Department

Year: 1999

Issues: Plaintiff, reputed drug-dealer, brought negligent security-based action against landlord when he was shot several times by a rival. Building superintendent was produced several times by landlord for deposition, but refused to testify claiming to his counsel that he had been threatened. The court granted plaintiff's motion to strike defendant's answer, and denied the cross-motion for a discovery conference.

Result: **Order Reversed** and discovery conference granted. A careful search of the record revealed that the threats against the witness were substantial, and their lack of detail was due to the witness' fear of reprisal.

Area: Premises Liability/Default Judgment/Appeal
Venue: Second Department
Year: 1998
Issues: Rejection of answer; improvident exercise of court's discretion; default judgment.
Result: **Judgment of Default Reversed** and Answer deemed served. On appeal, we successfully demonstrated improper conduct by plaintiff, reasonable excuse for delay in answering (documented, ongoing settlement negotiations), and a meritorious defense.

Area: Automobile Accident
Venue: Bronx County
Year: 1998

Allegations: Plaintiff alleged that our client, among a series of drivers involved in a multiple car accident, drove negligently by failing to keep a proper distance from the car in front, causing the plaintiff's injuries.

Defense: No evidence of negligence on the part of our client, who was rear-ended and pushed into the host car.

Result: **Dismissal via Summary Judgment** of all direct and cross-claims asserted against the insured.

Area: Labor Law/Wrongful Death/Appeal
Venue: Second Department
Year: 1997

Issues: Indemnification; excessive verdict; rate of interest

Result: **Judgment modified and verdict reduced.** After the Transit Authority was held liable to the plaintiffs as an owner under Labor Law § 240, and obtained a directed verdict on its indemnity claims against the plaintiff's employer, we were successful in reducing plaintiff's multi-million dollar verdict by almost half, with substantial reductions in the pre-impact terror and pecuniary loss awards. Additionally, we successfully argued that though Transit and the City enjoyed a pass-through of liability via common law indemnification, the rate of interest applied to the judgment should be that established by the Public Authorities Law, 3%, meant to protect the public coffers and municipal judgment debtors, rather than the higher interest rate of 9% required of private judgment debtors by the CPLR.