



MONTFORTHEALY

**New York Insurance Defense
and Personal Injury Defense Attorneys**

MONTFORT, HEALY, MCGUIRE & SALLEY LLP



ABOUT THE FIRM

Established in 1950 and committed to the principles of honesty, integrity and communication, the firm has earned an outstanding reputation throughout the New York metropolitan area for its defense of personal injury claims, as well as within the insurance industry, for the competent and ethical practice of law. Our goal is to bring our clients success by providing effective, efficient and expeditious legal representation.

A prominent part of our practice is the defense of medical malpractice actions. For more than forty years, we have represented many medical providers in the New York metro area, including major hospital systems and their physicians, against claims of medical malpractice and negligence. Our partners have tried major general liability and medical malpractice cases to jury verdicts. In addition, the attorneys at our firm have successfully defended individuals against claims of libel and slander.

Our attorneys have an unmatched track record in defending high-exposure claims of bodily injury arising from automobile accidents, labor law violations, construction accidents, homeowner claims, slip-and-fall accidents, products liability, and the use of heavy equipment and machinery. We also have extensive experience successfully refuting claims of alleged defects in sidewalks, streets, highways, and culverts. The firm is also experienced in defending Nassau County and several municipalities against claims of defective highway design and the alleged failure to provide adequate traffic control devices at intersections.

Our firm takes pride in its exceptional stability. Our trial attorneys average over twenty years of litigation experience in both Suffolk and Nassau County, as well as in all the surrounding metropolitan area counties, including the five boroughs of New York City and Westchester County. The firm regularly represents clients in the federal district courts, including the United States District Court for the Southern and Eastern Districts of New York. Our attorneys practice in state and federal courts, on both trial and appellate levels, and represent clients before administrative agencies.

Our firm is AV-rated by Martindale-Hubbell and is listed in the Martindale-Hubbell Bar Register of Preeminent Lawyers.

OUR APPROACH TO LITIGATION

We recognize that each of our clients has unique needs. While every corporate client will invariably have special requirements, we find that many of them share common goals in the defense of personal injury litigation, including:

- Early analysis
- Prompt reporting
- Efficient representation and quick resolution of claims
- Results

Through our extensive experience, we have learned to listen to our clients and help them meet their goals by understanding their individual requirements.

We have also learned throughout our experience in the personal injury defense field, specifically, that there is no single approach to a defense strategy that will satisfy every client. Every case we work on is assigned to a partner with specific experience in the area of law involved. Our firm believes in adhering to the following guidelines:

- **Every assignment received after service of the summons and complaint will be analyzed by the partner in charge.** A litigation plan of action outlining pre-trial proceedings will be provided at the outset of litigation.
- **Each case will be treated individually.** You will be made aware of the defense planned for each action well in advance and will have the opportunity to review and discuss the plan with us before its implementation.
- **Every effort will be made to force the early resolution of all pending lawsuits.** While a certain number of claims can be dismissed on motion, dispositive motions of this nature will be prepared only with your prior knowledge and consent.
- **We know that there is no universal approach to defense strategy that will satisfy every client.** We recognize that discovering your needs is a continuing process and constitutes the first and most vital step in providing the services that you require.

Our intent is not to tell you what we have done in the past, but rather, to listen to you and learn what we can do to meet your needs. Our partners are available for consultation at the convenience of our clients whenever needed or requested.

Early intervention and investigation is the key to establishing settlement policies, which will benefit our clients. Many issues will arise during the pendency of any claim, so it is vital to conduct an early investigation and to evaluate the matter at this stage. During pre-trial proceedings, every case is treated individually to minimize the expense of discovery proceedings without compromising the defense of an action.

In many instances, key witnesses are interviewed by our partners and senior associates within days after an occurrence that could give rise to litigation. All available medical records are reviewed as early as possible to enable us to determine the extent of the claimed injuries. We believe that all full liability cases should be settled as quickly as possible, both to reduce the cost of settlement and of legal expenses.

Should the litigation proceed to trial, our attorneys will appear daily, where they will work to bring matters to a final conclusion well within the expectations of our clients. Following the trial outcome, we will advise you immediately whether an appeal should be taken from an order or judgment, and we will take all steps necessary to perfect the appeal.

Our Appellate Department will also keep your management advised of current trends and changes in the law as they occur. It is extremely important that there be close communication between the partner in charge of the litigation and the person or persons in charge of risk or claims management. We believe in ensuring the client is promptly informed of every important development that occurs during the course of each lawsuit.



James Michael Murphy
Managing Partner

James Michael Murphy was admitted to the New York State Bar in 1983. Jim has been a partner at Montfort, Healy, McGuire & Salley since 1993. He specializes in negligence, products liability, municipal liability and has extensive experience in federal court matters arising under 42 U.S.C. Sections 1981, 1983 and 1986. He has handled a wide range of matters, including police liability, employment discrimination, contract actions, claims involving public utilities and insurance matters. Jim also represents plaintiffs in personal injury cases and has tried a broad variety of cases to verdict in both the state and federal courts. He has taught an accredited CLE program at Hofstra University School of Law entitled "Liability Issues in Automobile Cases." He has also lectured at various seminars for his clients and risk managers.

Education: State University of New York at Oswego (B.A. *cum laude*, 1979); West London Institute, London, England; Albany Law School of Union University (J.D., *cum laude*, 1982).

Admissions: 1983, New York; 1984, Florida, U.S. District Court, Southern and Eastern Districts of New York.



Christopher T. Cafaro
Partner

Christopher T. Cafaro was admitted to the New York State Bar in 1989. He has extensive experience as a trial practitioner. His areas of practice include construction and labor law. He has successfully litigated complex labor law cases involving contractual indemnification, antitrust and coverage issues on cases involving catastrophic injuries. He also has specialization in complex tort litigation, including municipal liability, products liability, medical and dental malpractice, premises liability and automobile litigation.

Education: University of Hartford; College of the Holy Cross (B.A., 1985); Syracuse University College of Law (J.D., 1988).

Admissions: 1989, New York and U.S. District Court, Northern District of New York; 1991, U.S. District Court, Eastern and Southern Districts of New York.



Jeffrey D. Present
Partner

Jeffrey D. Present joined the firm in 1987, and has represented a variety of insurance companies in declaratory judgment actions (both as a plaintiff and defendant) at the New York trial and appellate levels, as well as in United States District Court. Jeffrey has tried cases in almost every county in the First and Second Judicial Departments, primarily involving automobile accident and premises liability actions. He has also argued appeals in both the First and Second Judicial Departments.

In addition to presenting seminars to insurance company personnel and claims managers on the issues of arbitration, insurance coverage and defense of tort litigation, Jeffrey conducted a CLE program at Hofstra University School of Law entitled "Liability Issues in Automobile Cases." He has also been on the faculty of three CLE programs administered by the New York State Bar Association on trial and deposition practice. Since 2009, he has served as a director of the Nassau-Suffolk Trial Lawyers Association.

Education: Queens College of the City University of New York (B.A., 1984); Pace University School of Law (J.D., 1987).

Admissions: 1988, New York and U.S. District Court, Southern and Eastern Districts of New York; 2005, Appointed Arbitrator to Long Island, New York Panel Arbitration Forum.



Michael J. Boranian
Partner

Michael J. Boranian was admitted to practice law in New York and New Jersey since 1989. He joined Montfort, Healy, McGuire & Salley in 2005. Mr. Boranian began his career as a trial attorney with Schiavetti, Devito, Begos & Nicholson in Manhattan and thereafter was a partner in the Law Offices of Charles X. Connick, PLLC for eleven years. Over the course of his career, Mr. Boranian has tried and litigated matters of significant exposure in all areas of personal injury law, including hospital and medical malpractice, premises liability, products liability, labor law and municipal liability. Mr. Boranian's experience includes representing both individual physicians and institutional clients. He has successfully defended doctors in cases against both former patients and corporate adversaries. Mr. Boranian has also successfully defended cases involving claims of product defect, product misuse and dental malpractice. He lectures regularly to physicians and hospital personnel regarding issues of professional liability and avoidance of lawsuits.

Education: Queens College of the City University of New York (B.A. 1983); Brooklyn Law School (J.D. 1988).

Admissions: 1989, New York and New Jersey



Donald S. Neumann, Jr. Of Counsel

Donald S. Neumann, Jr. was admitted to the Bar in New York State in 1974 and began his career with Montfort, Healy, McGuire & Salley in the same year. Initially, he focused exclusively

in trial practice, gaining a broad range of experience in automobile, premises, municipal, medical malpractice, and products liability.

Beginning in 1980, his practice concentrated primarily in medical malpractice defense. His practice focus included vascular and bypass surgery, general surgery, and infectious diseases. He managed a caseload of approximately eighty cases.

Since 1998, he has headed the firm's insurance and appellate law departments. He has argued more than 240 cases covering a broad cross section of law, including insurance coverage, labor law, medical malpractice, premises liability, automobile and no-fault law, municipal and police liability, and intentional torts. Cases decided in the Court of Appeals, the state's highest court, include *Tate by McMahon v. Colabello*, 58 NY2d 84 (1983); *Toeffer v. Long Island R. R.*, 4 NY3d 399 (2005); *ELRAC, Inc. v. Ward*, 96 NY2d 58 (2001); and *Meath v. Mishrick*, 68 N.Y. 2d 922 (1986).

In the case of *Meath v. Mishrick*, 68 N.Y. 2d 922 (1986), the Court of Appeals affirmed the dismissal of the complaint and held, as a matter of first impression, that, in the absence of an agency or other relevant relationship between a pathologist and the patient's treating physician, or of a continuing relationship between a pathologist and the patient, the continuous treatment of the patient by an attending physician does not extend the statute of limitations against either the hospital pathologist, who misread the biopsy of the patient, or the hospital.

Education: Colby College (BA, 1969); Northeastern University School of Law (J.D., 1972).

Admissions: 1973, Massachusetts; 1974, New York; 1975, U.S. District Court, Southern and Eastern Districts of New York; 2003, United States Court of Appeals for the Second Circuit; 2007, United States Supreme Court.



Personal Injury Claims Arising out of Motor Vehicle Accidents

Since our inception, we have represented, and continue to represent, numerous major automobile carriers. We also represent self-insureds who operate large fleets of motor vehicles. Our firm has represented many major automobile carriers since its founding and is familiar with all aspects of first-party automobile claims, including SUM, UMI, and No-Fault. We have represented municipalities in cases arising from village- and town-owned vehicles. In addition, we are experienced with issues arising out of coverage disputes pursuant to both personal and commercial policies, including late notice and lack of cooperation. Additionally, we understand the complex nuances of AIP claims, including Rule 14 violations.

Coverage Disputes Arising out of Motor Vehicle Accidents

Many issues can arise, including late notice, lack of cooperation or other problems. You may be entitled to coinsurance or indemnification from the insurance carrier of a co-defendant. We can advise you when and how to disclaim. We can defend and institute declaratory judgment actions when necessary to protect your interests. We are familiar with the exclusion and coverage issues which arise under both personal and commercial policies of automobile insurance.

Construction and Industrial Accidents

Our firm has defended a major utility for more than two decades, as well as several large commercial carriers. We have successfully defended lawsuits arising out of all types of construction actions premised on alleged violations of Sections 200, 240, and 241 of the Labor Law. We are conversant with coverage issues unique to the labor law field, including disputes arising out of blanket additional insured clauses, the requirement for indemnification where an agreement to procure an OCP policy has been breached, and application of the antisubrogation rule.

Products Liability

Our firm has successfully defended lawsuits arising out of the alleged defective manufacture or design of a wide array of products, ranging from ladders, boilers, conveyer belts, and automobiles, to consumer products such as handheld tools, space heaters, and cosmetics. We are aware of the different legal issues facing manufacturers, resellers, and distributors. Our firm has extensive experience in litigating the liability of successor corporations.

Homeowner Claims

The standard homeowner's policy provides coverage for a wide variety of personal injury claims. We have successfully defended claims arising out of slip-and-fall accidents, dog bites, and alleged Labor Law violations. We are conversant with current coverage developments, including the often-litigated claims for "unintentional injury" or "negligent assault."

Commercial Premises Personal Injury Claims

Whether property is used for commercial or residential purposes, landlords are named with increasing frequency as defendants in a wide variety of claims arising from slip-and-fall accidents due to the alleged failure to provide adequate security. Depending upon the county where the accident occurred, many different statutes can affect the duty of care owed. Experience gained from representing many municipalities, supermarket chains, and small businesses has provided the firm with an expertise in the defense of all forms of premises liability claims.

Toxic Tort and Environmental Claims

The firm has defended corporations, municipalities and other political subdivisions in numerous personal injury toxic tort claims. The firm is also experienced in the defense of state court claims for indemnification or contribution instituted by either the New York State Department of Environmental Conservation or private entities for alleged environmental contamination or wrongful discharge pursuant to the New York State Navigation Law or common law theories.

Insurance Coverage

Many issues relating to coverage can arise after an accident has occurred. Your insured may be entitled to indemnification by a co-defendant or to coverage from the insurance carrier of a co-defendant. In a commercial automobile policy, for example, coverage under the loading and unloading clause may or may not exist, depending upon the facts of each case. A major portion of our practice consists of the interpretation of insurance policies and the resolution of coverage issues.

Medical Malpractice

Each day, healthcare professionals carry out their jobs with the knowledge that the procedures they perform may not go as planned. When risk becomes reality, victims and their families often look for someone to blame. To prevail on a medical malpractice claim, a plaintiff must prove that he sustained injury as a direct result of the medical treatment and that the treatment did not meet the minimum standard of care required of a reasonable and prudent medical professional. Our law firm holds plaintiffs to their burden of proof and seeks to have frivolous claims dismissed as soon as possible. Our firm has earned a reputation for achieving outstanding results in medical malpractice defense cases.

Professional Liability Claims

Our firm is extremely active in the field of medical malpractice defense and is regularly retained by several medical malpractice insurance carriers to defend both hospitals and doctors. We have also defended numerous claims of malpractice brought against attorneys, architects, and accountants.

Hospital Liability Administrative Law

Our attorneys defend hospitals and medical professionals in administrative hearings before government agencies throughout the New York metropolitan area, including at the New York State Department of Health. We also advise clients regarding potential patient problems that threaten the financial stability of institutions, including mental hygiene law hearings, patient refusal of treatment hearings, and right-to-die issues. The firm also represents clients in civil rights and discrimination claims, in criminal defense matters, and in termination of privileges proceedings. The firm also assists hospitals with drafting documents and creating policies to help ensure institutions comply with state and federal healthcare standards. The firm also drafts and reviews medical staff bylaws that define staff standards and licensing procedures. We have represented St. Charles Hospital, Mercy Medical Center, Nassau University Medical Center, and Winthrop University Hospital for many years. We also represent St. Joseph's Hospital and Good Samaritan Hospital Medical Center. In addition, we have been regularly retained by the Medical Liability Mutual Insurance Company (MLMIC) and Physicians' Reciprocal Insurers (PRI) for more than twenty-five years, and we have recently been retained by the MedPro Group.

Federal Civil Rights Claims

We represent several police departments and are experienced in the defense of claims brought pursuant to Section 1983 and in all aspects of police civil liability. We have also defended numerous claims of discrimination in employment and claims brought pursuant to Sections 1981 and 1985.

Municipal Liability

We have represented several municipalities, including the Village of Freeport and the County of Nassau, for more than thirty years. We have defended the village in actions arising from the operation of village-owned vehicles, those alleging excessive use of force by police, civil rights actions, and employment claims.





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