

## WALTER J. KLEKOTKA

CO-CHAIR, PREMISES AND RETAIL LIABILITY PRACTICE GROUP  
SHAREHOLDER



### AREAS OF PRACTICE

Premises and Retail Liability  
Hospitality and Liquor Liability  
Product Liability  
Property Litigation  
Asbestos and Mass Tort Litigation  
Trucking & Transportation Liability  
Catastrophic Claims Litigation

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Mount Laurel, NJ 08054

### ADMISSIONS

New Jersey  
1987

Pennsylvania  
1987

### EDUCATION

Widener University School of Law  
(J.D., 1987)

University of Delaware (B.S.,  
1983)

### HONORS & AWARDS

AV® Preeminent™ by Martindale-  
Hubbell®

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## OVERVIEW

Walter currently practices in the areas of premises liability, asbestos, hospitality/dram shop, product, auto, trucking & transportation and pharmaceutical matters. He has extensive experience in premises liability in the retail sector, having handled several hundred cases ranging from slip and falls to falling merchandise claims. He likewise has broad experience in pharmaceutical matters, representing numerous pharmacies and pharmacists in misfill and mislabel matters. In the course of his career, Walter has taken more than 50 matters to trial, including many jury trials. He is also quite skilled in alternative dispute resolution forums such as mediations and arbitrations.

Walter is a graduate of the University of Delaware where he obtained a Bachelor of Science degree in Economics. He received his *juris doctor* from The Delaware Law School of Widener University, after which he joined Marshall Dennehey. In 1991, he moved to the New Jersey office where he concentrated his practice on general liability matters. He has been a shareholder since January of 1996.

Walter initially began his career in the asbestos department where he handled hundreds of asbestos personal injury actions involving various claims of lung disease. As such, early in his career, he took numerous cases to verdict.

Walter is frequently asked by clients and industry organizations to lecture on a variety of topics concerning premises liability, automobile law and general liability matters.

## THOUGHT LEADERSHIP

### On the Pulse... Premises and Retail Liability Group

**Orlando  
Mount Laurel  
Premises and Retail Liability  
June 1, 2021**

Marshall Dennehey's Premises and Retail Liability Practice Group, housed within the firm's Casualty Department, defends Defense Digest, Vol.

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## ASSOCIATIONS & MEMBERSHIPS

Camden County Bar Association

Claims & Litigation Management Alliance (CLM)

New Jersey State Bar Association

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## YEAR JOINED

1987

## CLASSES/SEMINARS TAUGHT

*Successful Strategies for Effective Mediation*, Marshall Dennehey Client Seminar, July 20, 2022

*Jurisdictional Trends & The COVID-19 Impact on FL NY NJ & PA*, Marshall Dennehey Virtual Client Presentation, December, 2020

1997 Civil Motion Practice, New Jersey State Bar Association Civil Litigation for Paralegals, CISI Dram Shop, South Jersey Claims Association

## PUBLISHED WORKS

"No More Pigeonholes in Premises Liability Law," *New Jersey Law Journal*, August 21, 2006

"New Jersey Charitable Immunity Act: Public University Exempt From Suit Even Though Judgment Would Be Paid From Public Funds," *Defense Digest*, 2002-09, Vol. 8, No. 3

"The Downsizing of the Collateral Source Rule," *Defense Digest*, 2001-12, Vol. 7, No. 6, co-author

"Then N.J. Appellate Division Clarifies Duty Owed by Commercial Tenant," *Defense Digest*, Vol. 3, No. 1, 1997

"The Blizzard's Backlash: A Symposium on Issues Confronting Pennsylvania and New Jersey Property Owners," (Coauthor), *Defense Digest*, March 1996

"New Jersey Spoliation of Evidence and the Doctrine of Res Ipsa Loquitur," *Defense Digest*, August 1995

"New Jersey Creates Recreational Sports & Leisure Activities Liability Study Commission," *Defense Digest*, Summer 1994

## RESULTS

### Confirmation for obtaining the grant of summary judgement in a premises liability case.

#### **Premises and Retail Liability**

#### **Appellate Advocacy and Post-Trial Practice**

**August 13, 2021**

Our defense team successfully obtained an affirmance of the grant of summary judgment in a premises liability case. The plaintiff asserted he tripped and fell in our client's supermarket and that the fall exacerbated his epilepsy. The discovery period ended without the plaintiff producing an expert opinion that causally connected the medical complaints to the fall. The plaintiff claimed that his treatment for cancer caused his inability to be timely examined and to obtain an expert opinion.

### Successful defense of grant of summary judgment in the New Jersey Appellate Division results in published opinion

#### **General Liability**

**December 1, 2020**

Walter Klekotka (Mount Laurel, NJ) and Walter Kawalec (Mount Laurel, NJ) were successful in defending a grant of summary judgment in the New Jersey Appellate Division that resulted in a published opinion. Our clients were the owner and manager of an apartment complex for seniors. The plaintiff/resident had returned from walking her dog and alleged she received injuries entering the elevator.

### Contractual indemnification key to successful defense of premises liability case.

#### **Premises and Retail Liability**

**March 1, 2020**

We obtained summary judgment on behalf of a commercial tenant in a premises liability case. The plaintiff brought suit against our client, the commercial landlord and the City of Newark. The plaintiff alleged that the parties failed to maintain a condition of the sidewalk that caused a trip and fall.

### Jury Finds Supermarket Not Negligent in Vendor Injury Case

#### **Premises and Retail Liability**

**May 11, 2017**

Obtained a defense verdict in a jury trial on behalf of a regional supermarket chain. A vendor claimed he was struck by a large swinging door that was extended beyond its limits by a piece of machinery being operated by a store employee. When the machinery cleared the door, the plaintiff claimed the door was caused to snap back and accelerate towards him, causing injury to his left shoulder, neck and back. There was no wage loss, but there was a \$25K workers' compensation lien.

### Defense Closes the Door on Plaintiff's Claim Against Retailer

#### **Premises and Retail Liability**

**September 21, 2015**

Obtained summary judgment on behalf of a retail store client in a premises liability matter. The plaintiff walked into an automatic door that opened toward him at a retail store. He claimed that the door was defective, causing it to swing toward him at a rapid speed and strike him in the head. The incident was captured on surveillance video and showed that the plaintiff was merely not paying attention and walked directly into the door. At oral argument, the defense argued that the plaintiff failed to produce any evidence that the store was negligent or that a dangerous c

## SIGNIFICANT REPRESENTATIVE MATTERS

Obtained summary judgment for their client, a large retail store, in a premises liability case. Plaintiff brought suit against our client, a large retail store, alleging negligence for a physical altercation between a former employee and a customer. Plaintiff argued that the former employee held himself out as an employee, and the store was negligent in failing to protect the customer from criminal acts. We moved for Summary Judgment as the assailant was a former employee, and there was no foreseeability to put the store on notice for any criminal acts by a third party. At oral argument, we established that the record was clear as to the former employee's status at the time of the incident, and that the opposition arguments (the employee was stocking shelves and wearing clothing similar to the store uniform) were not genuine issues of material fact. The judge agreed and granted Summary Judgment for our client.

Successfully defended a grant of summary judgment in the New Jersey Appellate Division that resulted in a published opinion. Our clients were the owner and manager of an apartment complex for seniors. The plaintiff resident had returned from walking her dog and alleged she received injuries entering the elevator. She had allowed the dog to enter first, when the doors began to close. She alleged injuries occurring when the right door struck her arm, and when she used her left arm and left side of her body to slow the doors from closing while she leapt into the elevator. She sued our clients and the company hired to maintain the elevator, but was unable to establish any proof of negligence. The trial judge dismissed the case, declining to apply the doctrine of *res ipsa loquitur*, in part, because the plaintiff could not establish the third element of the doctrine: that the injury did not result from the plaintiff's own voluntary act or neglect. On appeal, the plaintiff argued that the Appellate Division should eliminate this third element. The Appellate Division, in a published opinion, concluded that the third element is a well-established law in New Jersey and only the New Jersey Supreme Court could eliminate it, and that court has shown no inclination to do so. Because the plaintiff could not demonstrate the third prong, *res ipsa* was not applicable and the failure of the plaintiff to establish negligence resulted in summary judgment in the defendants' favor.

Obtained a defense verdict for a large supermarket chain involving an injury to a vendor from a swinging door.

Obtained a defense verdict for a large supermarket chain involving a fall down as a result of a foreign substance on the floor.

Obtained a defense verdict representing a Gas station Mini Market involving a slip and fall on foreign substance on the floor.

Obtained a defense verdict in a case involving allegations of RSD.

Successfully mediated products liability matter with loss of sight in one eye.

Successfully mediated products liability case involving permanent facial disfigurement.