



## DEIRDRE E. TRACEY

### Partner

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Deirdre E. Tracey is an appellate partner defending high exposure matters in New York state and federal courts, as well as courts across the country. Ms. Tracey has dedicated her career to appellate practice, the analysis of complex legal issues, and mass tort litigation. In this capacity, she defends and advises clients on novel legal issues, legislative developments, and risk management from case inception. In addition to traditional appellate work, Ms. Tracey helps shape the overall case strategy throughout the life of the case and serves as appellate monitoring counsel at trials. Her practice has spanned an array of substantive areas of law including professional liability, commercial litigation, property damage, toxic torts, civil rights, products liability, construction litigation, and personal injury defense.

Prior to joining ARFD, Ms. Tracey practiced for two appellate practice groups specializing in the representation of excess insurance carriers and private clients in high exposure matters. She has been recognized by her peers and was selected to Super Lawyers for 2019 through 2022 as one of the top appellate attorneys, and was recognized as a Super Lawyers Rising Star in the previous five years. Ms. Tracey is admitted to the bars of New York State, the United States District Court for the Eastern District, and the United States Court of Appeals for the Second Circuit.

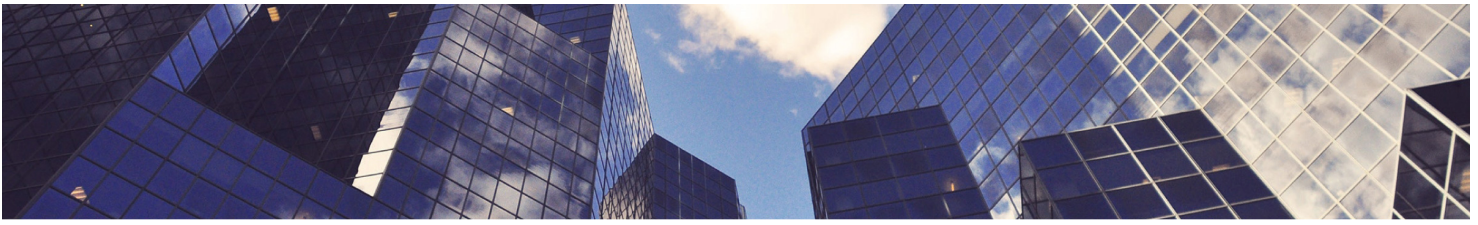
Highlights of her successes include:

- Walsh v. Pisano, 190 A.D.3d 535, 536 (1st Dep't 2021), involving the dismissal of a wrongful death action based on alleged medical malpractice as barred by Workers' Compensation Law under the co-employee doctrine where the defendant doctor's medical services provided to decedent were provided by the employer, at

### PRACTICE AREAS

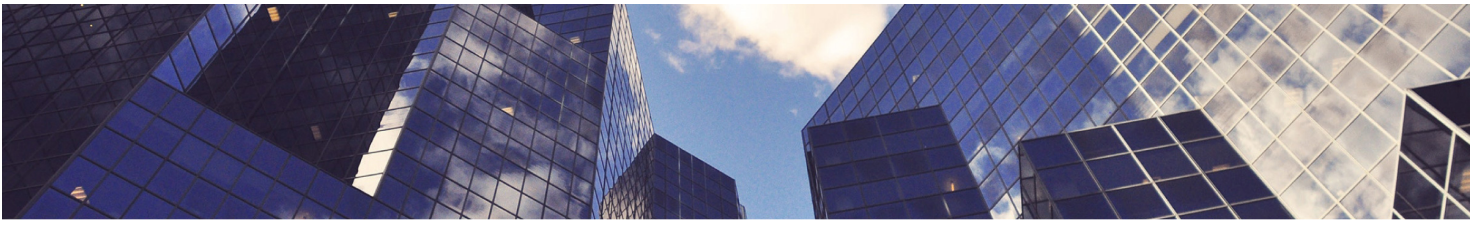
Appellate Practice  
Automobile Product Liability  
Construction Litigation  
General Litigation and Transactions  
Health Care Law — Regulatory Compliance  
Labor and Employment Law  
Medical Malpractice Litigation  
Premises Liability  
Product Liability  
Toxic Tort Litigation

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the employer's facilities, and as a benefit of employment that is not available to the general public.

- Polakoff v. NYU Hosps. Ctr., 176 A.D.3d 613 (1st Dep't 2019), confirmed that party statements, including audio and video recordings, must be disclosed pursuant to CPLR 3101[i] prior to party depositions. Court precluded plaintiffs' use of audio and video recordings of defendant doctor for plaintiffs' failure to timely disclose recordings prior to party depositions.
- Perez v. Riverdale Family Med. Practice, P.C., 177 A.D.3d 554, 555 (1st Dep't 2019), wherein the Court reversed the denial of summary judgment when plaintiff's theory rested on the incidental discovery of an otherwise unindicated condition.
- Matthis v. Hall, 173 A.D.3d 1162 (2d Dep't 2019), achieving dismissal based on a specialist physician's limited duty to those medical tasks undertaken rather than a general duty of care.
- Ongley v. St. Lukes Roosevelt Hosp. Ctr., 725 F. App'x 44, 47 (2d Cir. 2018), determined that summary judgment dismissal was warranted where plaintiff's causation theories were too speculative.
- Russo v. Levat, 143 A.D.3d 966, 966 (2d Dep't 2016), wherein the Court reversed the trial court order granting plaintiff's post-trial motion upon finding that the jury's defense verdict was based on a fair interpretation of the evidence and a missing witness charge for the defendant doctor was not warranted.
- Bermejo v. New York City Health and Hospitals Corp., 135 A.D.3d 116 (2d Dep't 2015), prevailed on appeal in seminal appellate decision curtailing plaintiffs' improper IME discovery practices and awarding costs of trial and appeal and attorneys' fees to defendants. Ms. Tracey performed trial monitoring and related motion practice during the trial to obtain a mistrial and shape the record before the eventual appeal.
- Several successful appeals obtaining dismissals in toxic tort actions: Francis v Leon



D. Dematteis Assoc., LLC, 99 A.D.3d 856, 857 (2d Dep’t 2012); Michaud v. Lefferts 750 LLC, 87 A.D.3d 990 (2d Dep’t 2011); Brown v. Maple3, LLC, 88 A.D.3d 224 (2d Dep’t 2011).

Ms. Tracey is a dean’s list graduate of St. John’s University School of Law, where she was on the Executive Board of the Moot Court Honor Society and a member of the national team. Before attending law school, Ms. Tracey worked in sales and marketing in the travel and hospitality industry. She received her undergraduate degree from Colgate University, where she competed in the long distance events for the track and field team, and served as team captain.