



David Cost

He | Him | His

Partner

Albany

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Education

- University at Buffalo School of Law, JD
- Hamilton College, *With Honors*, BA

Practices & Industries

- Commercial Litigation
- Health Care
- Health Care Controversies
- Labor & Employment
- Mass & Toxic Torts
- Torts & Products Liability Defense

Admitted to Practice

- New York

Court Admissions

- US Court of Appeals for the Second Circuit
- US District Court for the Northern District of New York
- US District Court for the Western District of New York

Biography

Starting as a summer associate, David has spent his entire legal career at the firm, concentrating his practice on matters involving commercial litigation, health care controversies, torts and products liability defense, mass and toxic torts, and labor and employment. He has successfully represented clients in numerous state and federal courts through all phases of litigation. David has extensive experience handling complex business disputes; health care and human service provider challenges; and personal injury, civil rights, asbestos exposure, and employment disputes, including both jury trial and appellate practice. He has obtained multiple favorable outcomes for clients, including judgments, dismissals, negotiated resolutions, and substantial settlements.

David strives to translate complex legal issues in ways that make them more easily understandable for clients, juries, and judges. He uses his background from the courtroom and managing many kinds of disputes to help clients mitigate their risks and avoid litigation if possible. David actively works with clients to understand their business objectives in order to provide practical advice to help them navigate legal conflicts. He has shared his deep industry knowledge and experience through presentations at multiple national conferences, lecturing on appellate advocacy, mass-tort defense strategy, and pro bono representation.

Bar Associations

- Albany County Bar Association
- American Bar Association
- Federal Court Bar Association for the Northern District of New York
- New York State Bar Association, Ethics & Professional Responsibility Committee

Selected Memberships & Affiliations

- Defense Research Institute, Former Asbestos Medicine Committee Young Attorney Liaison

Representative Experience

- Serves as counsel to a variety of business entities and individuals, prosecuting and defending complex litigation matters from inception to resolution or trial.
- Represented and successfully negotiated a settlement on behalf of an international manufacturer in a fatality wrongful-death action stemming from a construction accident.
- Serves as national coordinating and local counsel for manufacturers and retailers in mass-tort lawsuits for claimed exposure to asbestos across the United States, helping to obtain multiple dismissals of actions prior to trial.
- Represents a global utility in defending personal-injury claims related to electrical-grid operations and natural-gas operations. Obtained dismissal before trial of claims brought by a rival utility for property damage.
- Serves as counsel to state employees in federal civil-rights actions involving constitutional due-process issues and allegations of the denial of the First Amendment, due process, and Equal Protection rights, including allegations of rights violations by individuals under the auspice of the Office of People With Developmental Disabilities following investigations by the NYS Justice Center and the Department of Health.
- Serves as counsel to hundreds of employers in multiple fields who were former members of group self-insurance workers' compensation trusts, defending multi-million claims and helping to recover thousands in multi-party lawsuits against third-parties responsible for trust deficits (Accredited Aides Plus, Inc. v. Program Risk Mgt., Inc.; Krog Corp. v. Vanner Group, Inc.; NYAHSAs Servs., Inc., Self-Ins. Trust v. People Care, Inc.).
- Represents employers in lawsuits related to the enforceability of covenants not to compete, unfair labor practices, and discrimination claims by employees.
- Served as a trial team member in a jury trial defending an international manufacturer against claims of asbestos exposure that placed 98 percent of the verdict on other entities.
- Served as pro bono trial counsel for a prisoner plaintiff in a federal civil-rights matter for the denial of constitutional due-process rights and Equal Protection violations.
- Served as trial counsel for multiple insurers in defending first-party claims under insurance agreements.

- Served as lead counsel for multiple premise owners and businesses, from national grocery retailers to local businesses, in matters involving premises, products liability, and lead-paint personal-injury claims brought by the plaintiffs, resulting in defense verdicts dismissing claims prior to trial (Seferagic v. Hannaford Bros. Co.; McMullin v. Martin's Food of S. Burlington, Inc.; Tverskoy v. Ramaswami; Raczes v. Horne; D&D of Delhi, Inc. v. Village of Delhi; Baker v. Thorpe).
- Served as counsel for clients in Article 78 proceedings challenging a state agency's claims of payment or withholding of funds and disqualification from government-enabled programs.
- Represents multiple insurers in subrogation actions, recovering thousands for insurance proceeds paid to insureds due to the negligence of third parties.
- Brought an Article 78 proceeding against the Office of Mental Health to eliminate COPS payment recoupments and negotiated a settlement where the client paid less than what was demanded.
- Represented a state employee in federal civil-rights actions involving constitutional due-process issues and allegations of the denial of the First Amendment, due process, and Equal Protection rights, including allegations of rights violations by individuals under the auspice of the NYS Office of People With Developmental Disabilities (OPWDD) following investigations by the NYS Justice Center and the Department of Health (DOH).
- Successfully obtained dismissals for employers of unlawful discrimination and sexual harassment brought before the NYS Division of Human Rights by terminated employees.
- Successfully obtained summary judgment dismissal with prejudice of an action involving a plaintiff claiming the feed provided by the client caused the death of their rabbits. The plaintiff failed to produce any proof that aflatoxin in the insured's feed actually killed their rabbits, and they could not prove causation at trial.
- Defended a major gasket manufacturer against claims brought by a plaintiff suffering from mesothelioma allegedly caused by asbestos exposure. At the conclusion of the four-week trial in New York State, only 2 percent of the total verdict was apportioned to the client. Ninety-seven percent of the \$8 million verdict was allocated by the jury to six out of 27 other non-trial defendants who had settled or not been sued.
- Successfully defended a county sheriff's office against claims of discrimination based on gender filed with the Division of Human Rights by obtaining a finding of no probable cause for the client.
- Successfully reduced the number of serious OSHA citations received by an urgent care provider for violating the

Healthcare Emergency Temporary Standard from 19 to three, and reduced the client's fine by 60 percent.

Prior Experience

- Hiscock & Barclay, LLP, Counsel
- New York Independent System Operator, Inc., Legal Intern
- National Fuel, Inc., Law Clerk

Selected Community Activities

- Northern Rivers Family of Services, Board of Directors Member
- Legal Aid Society for Northeastern New York, Board of Directors Member
- Capital Region Chamber of Commerce, Leadership Tech Valley Program Class of 2018
- Legal Project of Albany Pro Bono Volunteer
- Prisoner's Legal Services, Pro Bono Volunteer

Selected Honors

- *The Best Lawyers in America*®: Product Liability Litigation – Defendants, 2022–2024; Commercial Litigation, 2024
- Selected to *Super Lawyers* Upstate New York: Civil Litigation: Defense, 2023; Upstate New York Rising Stars: Civil Litigation: Defense, 2016–2021
- The Legal Project of Albany, Stanley J. Rosen Memorial Award for Pro Bono Service, 2011
- New York State Bar Association, Empire Counsel Honoree, 2008 and 2011
- Martindale-Hubbell, Client Distinction Award

Selected Speaking Engagements

- DRI Asbestos Medicine Seminar, “Depositions: Challenges of the Past When Litigating in the Present”
- New York State Bar Association Intro to Civil Practice Skills: Torts, Personal Injury, and Insurance Law, “Taking and Perfecting The Appeal”
- American Conference Institute 15th National Advanced Forum on Asbestos Claims & Litigation, “Apportioning Liability in Jurisdictions With Fault Allocation: Sorting Out Verdict Form and Other Complexities Given That Today’ Cases Name Dozens of Parties as Liable for Exposure”
- Defense Research Institute Asbestos Medicine Seminar, “Young Lawyers 101”
- Northern District of New York Federal Court Bar Association CLE, “Handling a Prisoner Case”

Selected Media

- Law360, “How New York Workers Can Recover From Insolvent Trusts”
- Law360, “NY Court Cuts Back on Runner Doctrine”
- Law360, “Crisis at Workers Compensation Board Continues”
- *Albany Business Review* From The Career Ladder: How I Got Here Column, “No Substitute for Preparation”
- New York Professional Responsibility Report, “Imputed Disqualification & Public Perception”

Selected Alerts & Blog Posts

- New York Appellate Court Recognizes Members' Rights To Bring Direct Claims Against Parties Who Allegedly Caused Group Self-Insurance Trusts To Go Defunct
- New York Federal Court Restricts Application of Runner Doctrine: Labor Law 240(1) Inapplicable When Object Is Not on a Fall or Descent
- Reckless Disregard Standard Only Applies to the Specific Conduct Set Forth in that Statute
- Court Holds Defining A Medical Professional As An Independent Contractor Is Not Enough To Bar A Finding Of Employee Status
- Increased Wage And Overtime Requirements For Direct Care Providers May Be Harming Workers, Instead Of Protecting Them