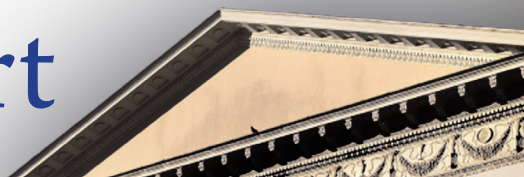


The Samel Report

Effective. Efficient. Street Smart.



Jeffrey Samel & Partners • 150 Broadway, 20th Floor • New York • 212.587.9690 • www.jeffreysamel.com

News Of the Firm

ABOTA Member
Martindale-Hubbell® AV Rated

Jeffrey Samel & Partners

I want to take this opportunity to thank you for the confidence you have expressed by your assignments of legal matters to us, and to provide you with information concerning some of the recent successes we obtained.

At Jeffrey Samel & Partners, we pride ourselves in providing our clients with aggressive representation aimed toward obtaining the best possible resolution of each matter assigned to us in an efficient, professional, and economical manner. In 2009, we obtained favorable resolutions for our clients by means of dispositive motions, jury verdicts at trial, and appellate decisions. The following are notable examples of the successful resolutions we obtained that illustrate the quality and effectiveness of the legal representation that we provide.

Jeffrey Samel



Cases of Interest

◆ **Dawson v. Rite Aid**
The plaintiff was wheelchair-bound as a result of pre-existing diabetes and arthritis. She claimed that she was injured because she was unable to negotiate safely around boxes left unattended in the aisle of our client's store. She also claimed, that the presence of the boxes in the store aisle violated the Americans with Disabilities Act (ADA). We argued that the boxes located in the aisle of the store were both "open and obvious" and not "inherently dangerous," and that the ADA does not create a cause of action for negligence. The Supreme Court granted our motion for summary judgment. No appeal was taken.

◆ **Guizado v. NYCTA**
Plaintiff bicyclist claimed that the rear of an MTA bus crossing perpendicular to his stopped position, struck his front tire and dragged him several feet. Plaintiff suffered medial meniscus tears requesting arthroscopic surgery to the right knee, along with cervical and lumbar herniations. The jury did not believe the plaintiff's version of the incident and returned a verdict in favor of the NYCTA, dismissing plaintiff's case in its entirety. No appeal was taken.

◆ **Kiley v. 560 LEXCO & ABM**
Plaintiff was injured when she tripped and fell on a buckled carpet

in an office where she worked. It was claimed that this hazardous condition was caused by desks being pushed in and out of her office approximately four months before the accident date. On behalf of our client, the janitorial contractor for the building, we argued that it owed no duty to plaintiff as a non-contracting third-party. The Court agreed and dismissed the Complaint.

◆ **Maldonado v. Novartis**
Plaintiff fell on 'black ice' located on an outdoor grating where he claimed he was dumping liquid refuse as part of his cleaning duties. The lower court granted our motion for summary judgment on behalf of the premises owner, agreeing

The Samel Report

Effective. Efficient. Street Smart.



with our arguments that the owner had no duty to keep such grating free of ice and snow, and that plaintiff could not prove notice of the “black ice”. Plaintiff had been seriously injured and rejected a settlement offer of \$250,000. Plaintiff appealed and the Appellate Division affirmed the dismissal.

◆ **Morris v. MABSTOA & NYCTA**

Plaintiff claimed that as she was exiting a bus, she stepped directly into a hole in the roadway, causing her left foot to twist. Plaintiff suffered a fractured ankle. The jury returned a verdict in favor of the our clients, agreeing with our arguments that the driver had acted reasonably, and that the area where plaintiff was discharged was ‘reasonably safe’ under the circumstances.

◆ **Pomahac v. TrizecHahn 1065 Ave. of Amer., LLC**

Plaintiff slipped and fell in a building lobby, due to either tracked-in rainwater

or spilled coffee. The lower court denied our motion for summary judgment. On our appeal, the Appellate Court reversed and dismissed the complaint. The Appellate Court agreed with our position and rejected plaintiff’s expert’s affidavit, holding that an internal rule requiring the janitorial employees to cover all exposed lobby floors with mats established a standard higher than that imposed by law and therefore could not be utilized to impute negligence.

◆ **Sanchez v. Barnes & Noble & Amtech Lighting**

A construction worker was electrocuted by a loose wire and sustained serious injury. On behalf of our client, one of two lighting service contractors (the other having defaulted), we moved for summary judgment on two grounds: That the contractor owed no duty to plaintiff; and the plaintiff failed to establish actual or constructive notice

of the condition complained of. The Supreme Court granted our motion for summary judgment. Plaintiff appealed. The Appellate Division affirmed the decision of the lower court.

◆ **Tocco v. Rite Aid**

Plaintiff tripped and fell over a bin of merchandise in the aisle of a drug store. We moved for summary judgment on the grounds that the blue-colored bin was both open and obvious and not inherently dangerous. Plaintiff argued that since there was a question whether he tripped over one bin versus three bins, a sufficient question of fact existed to defeat the motion. The Court agreed with our argument that there was no significance as to whether plaintiff tripped over one bin versus three bins, because either condition was open and obvious and not inherently dangerous. As such, the Court dismissed plaintiff’s Complaint. No appeal was taken.

Final Word

We hope that these cases demonstrate the effectiveness of the representation we provide to our clients in a wide variety of personal injury matters. We also hope that you have benefited from our representation in the past, and that you will continue to favor us with assignments in the future. We look forward to a long and mutually satisfactory relationship.

Areas of Practice



Appellate Practice	General Liability	Municipal Liability
Bad Faith	Homeowners Liability	No Fault
Commercial Litigation	Hospitality	Negligence
Common Carrier	Indemnification	Nursing Home
Construction	Insurance	Personal Injury
Coverage Issues	Labor Law	Police Misconduct
Dram Shop	Landowners Liability	Premises Liability
Elevators & Escalators	Lead Paint	Product Liability
Employee Assaults	Mass Transit	Professional Liability
Errors & Omissions	Medical Malpractice	Recreation
FELA	Motor Vehicle	Retail