

Patrick M. Carey

Shareholder

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Patrick is active in the defense of a wide variety of litigation areas including motor vehicle liability, premises liability, municipal liability, and hospitality and liquor liability. With his extensive criminal law background, Patrick also handles civil rights defense and insurance fraud cases. He has successfully handled several civil rights and municipal liability cases involving prisons, police departments, police officers and municipalities.

Patrick is a graduate of Gannon University in Erie, Pennsylvania. Following graduation, Patrick attended Ohio Northern University School of Law where he achieved his *juris doctor* in 1987. He then served as a law clerk for the Honorable Shad Connelly of the Court of Common Pleas for Erie County, Pennsylvania. Prior to joining Marshall Dennehey, Patrick served as an Erie County Assistant District Attorney for more than eight years. In that role, he tried over 100 criminal cases, including high-profile homicide cases, as well as precedent-setting cases.

Patrick was an adjunct professor at Gannon University where he taught an undergraduate course in Criminal Evidence. He was also a lecturer in the joint project between the Erie County Courts and the Erie City School District entitled "*Personal Responsibility and the Law*." Patrick also was a lecturer in the Erie County Bar Association's "*Stepping Out*" program by which Erie County lawyers addressed high school students regarding legal issues facing them upon graduation.

Education

- Ohio Northern University Pettit College of Law (J.D., 1987)
- Gannon University
 - B.S., B.A., 1984

Admissions

Practices

- Automobile Liability
- General Liability
- Public Entity & Civil Rights Litigation
- Architectural, Engineering & Construction Defect Litigation
- Product Liability
- Miscellaneous Professional Liability
- Hospitality & Liquor Liability

- Pennsylvania, 1987
- U.S. District Court Western District of Pennsylvania, 1987
- U.S. Court of Appeals 3rd Circuit, 1993
- New York, 2016

Honors & Awards

- The Best Lawyers in America®, Personal Injury Litigation – Defendants (2024-2027)

Associations & Memberships

- Erie County Assistant District Attorney Association, Former Vice President
- Erie County Bar Association
- Pennsylvania Bar Association
- Pennsylvania District Attorneys Association, Former Member

Classes/Seminars Taught

- *Criminal Evidence*, Gannon University
- *Liability for Police Pursuits*
- *Municipal Liability for Roadway Dangers*

Published Works

- "Pennsylvania Superior Court Further Limits the Limited Tort Defense," *Defense Digest*, Vol. 21, No. 2, June 2015

Significant Representative Matters

- Defended a former City of Erie Police Officer who was tried with his partner and the City of Erie in an excessive use of force matter arising from the arrest of the plaintiff, who sustained facial and low back injuries in the arrest. The case was tried in the U.S. District Court for the Western District of Pennsylvania. The jury returned defense verdicts for both officers and the City of Erie.
- Defended two City of Erie Police Officers, the Chief of Police, and the City of Erie in a civil rights suit in the U.S. District Court for the Western District of Pennsylvania. The police were invited into the plaintiff's home by her 18-year-old son to keep the peace while he gathered his belongings and moved out. During this, the plaintiff assaulted one of the officers and was taken into custody. In her struggles with the officers, the plaintiff sustained injuries to her wrist. She claimed illegal entry, illegal arrest, and excessive use of force. The jury returned defense verdicts after 20 minutes of deliberation.
- Defending a number of Erie County Sheriff's Deputies who used a taser on a convict who struggled with them as he was lead from the courtroom following sentencing.
- Defending the Erie County Prison and the McKean County Jail in a number of prisoner suits alleging violations of 8th amendment and other civil rights violations regarding their incarceration in prison.
- Defending the McKean County District Attorney, County Commissioners, and McKean County Prothonotary in civil rights actions arising from the plaintiff's prosecution for criminal and protection from abuse matters.
- Defending the Erie County District Attorney, Adult Probation Officers, and Clerk of Courts in a suit stemming from a criminal sentencing issue imposed on the plaintiff.

- Defending various officials in Warren County, including their Sheriff, District Attorney, Public Defender, and Prothonotary, in civil rights claims raised by a convict.

Results

Appellate Reversal in the Third Circuit Obtained in Fourth Amendment Civil Rights Case

In a unanimous precedential opinion, the Third Circuit Court of Appeals agreed with our attorneys that a law enforcement officer's attempted arrest of the plaintiff did not constitute an unlawful seizure under the Fourth Amendment. Our client was instructed by a neighboring police department to hold a burglary suspect who was subject to a search warrant, but not an arrest warrant. After the officer tried to detain the suspect, he fled, and a fight ensued. While the district court held that the officer's initial attempt to detain the plaintiff was an unlawful seizure, the Third Circuit accepted our reasoning that no seizure occurred because the plaintiff never submitted to the officer.

Dismissal of claims against a Pennsylvania city and a police officer.

In this civil rights litigation, we obtained summary judgment and the dismissal of all claims against a Pennsylvania City and one of its police officers. The court found that the traffic stop of the plaintiff was proper and did not violate his constitutional rights. The plaintiff filed a federal civil rights action against the police officer and the City, alleging that his Fourth Amendment rights were violated because of unlawful search and seizure as well as a malicious prosecution. The plaintiff further alleged that the City was liable for the constitutional violation based upon a failure to train its officers. These claims were based, in part, upon the Pennsylvania Supreme Court decision in *Commonwealth v. Hicks*, which was filed approximately two months before the plaintiff's arrest. In this civil rights case, the parties agree to forego discovery and instead rely solely upon the record developed in the plaintiff's state criminal prosecution. After considering the record evidence, the arguments of each side, and the motions and briefs submitted, the District Court issued an opinion finding that the police officer possessed a reasonable suspicion of criminal activity, justifying the traffic stop of the plaintiff's vehicle. Because the court concluded that the plaintiff's constitutional rights had not been violated, an analysis of qualified immunity was unnecessary. Finally, after finding that the officer did not violate the plaintiff's constitutional rights, the court dismissed the *Monell* claims raised against the City.

Defense Sends Personal Injury Lawsuit Down Amusement Park's Lazy River

Our attorneys obtained summary judgment relief on behalf of an amusement park in a lawsuit for alleged personal injury sustained at the park's lazy river attraction. The plaintiff and his family were business invitees at our client's amusement and water park. The plaintiff alleged he sustained injury when he attempted to board an inner tube on the lazy river attraction, which was staffed by certified lifeguards. The plaintiff claimed that the lifeguards negligently failed to assist and/or help him get onto the inner tube and were further negligent for failing to observe him while he attempted to do so. As a result of the

lifeguards' alleged negligence, the plaintiff claimed his inner tube flipped backwards, resulting in his head striking the floor of the shallow watercourse.

During depositions, the plaintiff and his wife conceded that the extent of the lifeguards' assistance to visitors of the attraction was gathering vacant inner tubes and pushing them towards people waiting in line. Moreover, the plaintiff testified he made one initial unsuccessful attempt to climb on an inner tube before ultimately "over engineering it" on his second attempt, which caused the inner tube to flip backwards. The court agreed that under the "no-duty" rule, the lifeguards did not owe the plaintiff a duty because the alleged risks associated with climbing onto an inner tube in the lazy river attraction were common, inherent, expected or frequent risks associated with the activity. Furthermore, the plaintiff was unable to satisfy an exception to the no duty rule because he could not prove the employees deviated from an established custom or duty. The trial court's decision granting summary judgment and dismissing the plaintiff's claims, with prejudice, was ultimately affirmed on appeal to the Pennsylvania Superior Court.