



## Robert C. Neff Jr.

Of Counsel

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Robert Neff is an experienced litigator who has defended a wide range of commercial and professional liability and negligence lawsuits in New Jersey state and federal courts.

Robert's practice runs the gamut from general and product liability claims to construction defect and accident cases. In addition to defending claims at the trial court level, he regularly is called upon by clients and colleagues to brief and argue appeals involving a range of issues before the New Jersey Appellate Division. As mayor of the Borough of Little Silver, NJ, and a civil defense attorney, Robert also has experience with municipal liability litigation and regulations. He recently represented a residential condominium complex before the New Jersey Supreme Court, successfully defending against a challenge to the long-standing lack of liability in New Jersey for residential property owners in sidewalk tort cases, *Luhejko v. City of Hoboken*, 207 N.J. 191, 23 A.3d 912 (2011).

For several years before attending law school, Robert was a newspaper reporter. In addition to providing him with excellent writing skills, this experience enables Robert to view legal issues objectively and guide his clients toward an unemotional approach that emphasizes creative and cost-effective resolution strategies and seeks to avoid prolonged litigation.

Robert served as a law clerk to the Honorable William G. Bassler, U.S. District Court for the District of New Jersey, from 1991 to 1992.

### Public Service

Robert currently is mayor of the Borough of Little Silver, a position to which he was appointed in September 2011 and then elected in November 2011. He previously served as a member of the Little Silver Borough Council from 2008-2011, including the positions

### Services

- Appellate
- Commercial Litigation
- Construction
- Municipal/Local Government
- Product Liability, Prevention & Government Compliance
- Professional Liability & Services

of president, chair of the Personnel Committee, and liaison to the Shade Tree Commission and the Environmental Commission. He began his service to Little Silver when he was appointed in 2005 as an alternate member of the Planning and Zoning Board.

In addition, Robert currently is a member of the New Jersey Tidelands Resource Council, to which he was appointed in 1995 by then-Governor Christine Whitman. The Council handles the sale, leasing and licensing of tidal lands.

## **Construction**

Robert regularly represents defendants in construction defect and construction site accident litigation. For example, he tried a construction site accident case in which he was able to have a plaintiff's verdict vacated and judgment entered for the defendant, the owner of the site and the operator of a large port. He also has won summary judgment motions on behalf of owners and contractors on the basis that those parties are entitled to rely on the competence of their subcontractors absent a specific retention of control over the work. Robert has represented architects and engineers in defective design cases, and multiple roofers, framers and other subcontractors in OCIP-covered projects, successfully steering them to resolution. His experience in the construction field is augmented by his service as a mayor and planning board member, where he often works with engineers and contractors, and as an owner in connection with borough projects and applications, giving him a broader understanding of their respective roles.

## **Education**

- Seton Hall University School of Law (J.D., 1991)
- Middlebury College (B.A., 1984)

## **Bar Admissions**

- New Jersey, 1992

## **Court Admissions**

- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Third Circuit
- U.S. District Court, District of New Jersey

## **Awards & Honors**

- Winner of the American Bar Association's Bert W. Levit national writing competition on professional responsibility, 1998

# **Client Wins**

**Neff Prevails on Behalf of Housing Authority in New Jersey in Wrongful Death Case**  
Robert Neff (Of Counsel-Madison, NJ) received affirmance from the Appellate Division of

Superior Court in New Jersey of a summary judgment awarded to Wilson Elser's client, a large Housing Authority in New Jersey, in a wrongful death case involving a drive-by shooting resulting in the death of plaintiff's decedent. The 19-year-old man was at a housing development run by the Authority when four assailants entered the development through the unmanned gatehouse, gunned him down, and sped away. The allegation against the Authority was negligence in failing to provide proper security, particularly with respect to the gatehouse at the only entrance to the development, which was not staffed, and where the security gate had not been operational for many years. The city's Police Department was a codefendant on an allegation of negligent policing pursuant to the terms of an agreement with the Authority to provide police patrols. Our motion to bar an expert report supporting the plaintiff's theories of liability as untimely served was granted, and plaintiff's interlocutory appeal was denied. Robert then moved for summary judgment, arguing that the facts of the case did not support the plaintiff's theory that security was lax, that the plaintiff could not establish a breach of duty, and that the plaintiff had no expert to support the theory of breach or proximate cause. The Police Department then cross-moved for summary judgment, adopting Robert's arguments and asserting their own immunity defense. The judge agreed with our position, granting summary judgment to the Authority for lack of a factual basis and for the lack of an expert report to support breach and causation. The court below also agreed with the Police Department's arguments, and granted its motion as well. The plaintiff then appealed. In a unanimous decision, the Appellate Division affirmed the motion judge's decision on all grounds. The plaintiff's settlement demand was \$2 million. The authority never made an offer.

#### **Moran & Neff Deliver One-Two Punch for Homeowner**

Jennifer Moran (Partner-Madison, NJ) was successful in a motion for summary judgment in June 2020. The firm's client owned a home in Ocean County and his son (the plaintiff) fell off an extension ladder while helping his father (the firm's client) with exterior house painting. The plaintiff suffered a severely broken ankle requiring multiple surgeries and resulting in permanent gait issues. The remaining claims in the case languished during COVID-19 before a trial, which resulted in a "no cause." The plaintiff appealed the Order granting our client's Summary Judgment win from 2020 and the no cause for the other defendant. Enter Robert Neff (Of Counsel-Madison, NJ), one of our office's Appellate gurus, to handle the de novo review! The Appellate Division issued an Order affirming Summary Judgment and the no cause judgment.

#### **Neff Teams with NY Talent to Secure Dismissal on Eve of Jury Selection**

Robert C. Neff Jr. (Of Counsel-Madison, NJ) combined forces with the firm's White Plains, New York, office to win a dismissal for a large construction material supply company in an automobile accident trial with a \$750,000 settlement demand after *in limine* motions were heard and jury selection was about to begin. The complaint alleged that the tractor-trailer operated by the client's driver struck the plaintiff's vehicle as it was attempting to merge into heavy traffic. The driver testified that the plaintiff attempted to cut him off. Plaintiff alleged disabling injuries with two surgeries and implantation of an electronic stimulator in her back. The Essex County trial judge granted Wilson Elser's *in limine* motions to bifurcate the matter and to proceed first with a liability-only trial. The evening before jury selection, plaintiff's counsel advised that his client was unable to come to New Jersey for trial because of an unspecified medical procedure and she was unable to afford plane fare. A motion to dismiss was promptly prepared, and with the assistance of New Jersey

Office Administrator Suzanne Tornillo and Legal Assistant Paula Johnson, and e-filed at 6:55 a.m., before jury selection began. That morning, plaintiff's counsel made an emergent request to adjourn the trial, which was denied and the case was sent back to the trial judge for a decision on Robert's motion to dismiss. Finding that the defense was prepared and ready to proceed, and plaintiff had failed to provide any advance notice of her issues, even to her own attorney, the trial judge granted the motion to dismiss, and gave leave to cross-move for an award of fees and costs should plaintiff move to reinstate the matter.

White Plains Senior Counsel Harry Brett served as TRAC counsel, and partners Jacqueline Hattar and John Flannery provided invaluable advice.

### **Neff Secures Dismissal in Tragic Wrongful Death Case**

Robert Neff (Of Counsel-Madison, NJ) successfully defended a city housing authority and the city's police department, which had a shared services agreement with the authority to provide police patrols at a public housing development. The case involved a 19-year-old who was playing football with friends when he was shot in the chest in a drive by-shooting at the subject premises. The decedent's estate, represented by his mother, filed a wrongful death complaint against the firm's clients alleging the authority failed to staff a guard booth at the development's entrance, allowing the van with four assailants to drive onto the property and open fire. After extensive fact discovery, the plaintiff attempted to serve an expert liability report after the court-ordered deadline had expired. Bob filed a motion to bar the report, which was granted. The plaintiff's application to the Appellate Division for interlocutory review of the Order was denied, and consequently Bob moved for Summary Judgment, arguing that the plaintiff could not prove the case without expert testimony, that the facts did not raise a triable issue on breach of duty or proximate cause, and that immunity provisions in the Tort Claims Act barred the claims. The court granted Bob's motion for lack of expert support and breach and proximate cause grounds on the facts. The court also found that immunity barred the complaint and dismissed the entire case, with prejudice.