

Mark Whitford

He | Him | His

Partner

Rochester

P: 585.295.4449

mwhitford@barclaydamon.com

Education

- University of Connecticut School of Law, *With Honors; Connecticut Insurance Law Journal,* Managing Editor, JD
- University at Buffalo, *Summa Cum Laude*, BA

Practices & Industries

- Insurance Coverage & Regulation
- Torts & Products Liability Defense
- Commercial Litigation & Complex Trials
- Insurance & Reinsurance
- Transportation
- Hotels, Hospitality & Food Service

Admitted to Practice

- New York

Court Admissions

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

Biography

Mark is co-chair of the firm's Insurance Coverage & Regulation Practice Area.

A former NY Supreme Court Appellate Division attorney, Mark concentrates on providing advice and litigation support to insurers across the country concerning their complex insurance needs, with a specific focus on commercial and excess liability, construction defect, property, directors and officers, and personal lines policies. Mark strives to deliver upfront, candid guidance to his clients concerning their complex needs, and he focuses on creating direct paths for resolving concerns.

Mark has briefed, argued, and succeeded on many commercial and insurance-related appeals throughout NY state and federal courts during his career.

In addition to his own practice, Mark regularly volunteers to provide advice to pro se litigants in state and federal courts.

Mark serves as the managing director of Barclay Damon's Rochester office and is a member of the firm's Management Committee.

Bar Associations

- American Bar Association
- Monroe County Bar Association
- New York State Bar Association

Selected Memberships & Affiliations

- Defense Research Institute

Representative Experience

- Representing a national insurer in various breach of contract and extracontractual claims pending in California and Washington under municipality-liability policies.
- Secured summary judgment in favor of insurers in multiple declaratory judgment actions. Successfully defended those dismissals on appeal to state and federal appeal courts for claims involving various first- and third-party claims such as environmental losses, agent liability, and large property losses.
- Defended and pursued interests of insurers with respect to priorities of coverage among multiple insurers for complex losses, including claims related to additional insured coverage and contractual and common-law indemnification.
- Successfully defended defendants in multiple complex construction-related accidents, including defense of claims under Labor Law § 240, with verdicts taken through trial.
- Assisted with the successful defense of an appeal concerning a limitation on damages for a foreign corporation based on NY choice-of-law principles, including appeals before the Appellate Division, Fourth Department and the Court of Appeals.
- Successfully moved to dismiss extracontractual allegations against insurers in state and federal actions in first- and third-party claims, including claims under General Business Law § 349, consequential damages, and punitive damages.
- Successfully defended defendants in multiple complex construction-related accidents, including defending claims under Labor Law § 240, with verdicts taken through trial.
- Successfully prosecuted appeals to the Appellate Division, Fourth Department and secured summary judgment in favor of an insurance company where the client did not owe any duty to the injured plaintiff.
- Secured a dismissal of claims against an insurer by the contractor who performed services for the insured based upon the lack of any agreement between the insurer and contractor, which was affirmed by the Appellate Division, Fourth Department.

Prior Experience

- Hiscock & Barclay, LLP, Counsel
- New York Supreme Court, Appellate Division, Third Department, Appellate Court Attorney

Selected Community Activities

- Pittsford Youth Services, Board Member
- Federal Pro Se Assistance Program, Volunteer
- 7th Judicial District Help Center at Rundel Library, Volunteer
- World of Inquiry School No. 58, Volunteer
- Foodlink Lexington Avenue Urban Farm, Barclay Damon Community Day Volunteer

Selected Honors

- *The Best Lawyers in America*®: Insurance Law, 2021–2027; Product Liability Litigation – Defendants, 2021–2027
- Selected to *Super Lawyers* Upstate New York: Insurance Coverage, 2025 and 2026
- *The Daily Record* and *Rochester Business Journal*, Power 50 Law, 2023–2026
- *The Daily Record* and *Rochester Business Journal*, Legal Excellence Awards: Leaders in Law, 2022
- *The Daily Record*, Excellence in Law Awards: Up & Coming Attorney, 2013

Selected Speaking Engagements

- Monroe County Bar Association, “Perfecting an Appeal in the Second Circuit and Considerations for Appellate Practitioners”
- New York State Bar Association, Law School for Insurance Professionals, Program Chair
- Selected Client Presentation, “Responding to Tenders for Defense and Indemnification”
- Buffalo Claims Association 22nd Annual Education Day, “Liens, Liens Everywhere”
- New York State Bar Association, “Advanced Insurance Coverage: Hot Topics, Tough Issues, and a Look Ahead”

Selected Media

- *New York Daily Record* and *Rochester Business Journal*, "Technology Playing a Larger Role in Legal Recruitment Practices"; "Law Firm Mergers Surge in 2024, Reflecting Industry Trends"; Western New York Firms Grapple With AI's Impact on Billing, Training, and Talent"
- *Rochester Business Journal*, "Mark Whitford Is Committed to Maintaining Culture of Success at Barclay Damon"
- New York State Bar Association *Insurance Law Practice*, “Motor Vehicle Coverage Issues”

Selected Alerts & Blog Posts

- NYS Appellate Court Clarifies Insurer Disclaimer Requirements
- Second Circuit Holds That a Default Judgment by an Insurer Against Insured Did Not Preclude Claims by Other Parties
- NYS Appellate Court: Insured's Investigative Statements to Liability Insurer Are Protected From Disclosure
- NYS Appellate Court Reverses and Holds Liability Insurer Owed Duty to Defend to Policyholder in Sexual Abuse Lawsuit
- NYS Appellate Court Dismisses Claim Based on Material Misrepresentations in Insurance Application