

Kevin Szczepanski

Partner

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Education

- University at Buffalo, *Magna Cum Laude*; *Buffalo Law Review*, Editor-in-Chief, JD
- Canisius College, *Summa Cum Laude*, BA

Practices & Industries

- Data Security & Technology
- Data Center & Digital Infrastructure
- Insurance Coverage & Regulation
- Commercial Litigation & Complex Trials
- Torts & Products Liability Defense

Admitted to Practice

- New York

Court Admissions

- 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

A trial and appellate lawyer who primarily concentrates his practice on insurance-coverage litigation and cyber risks, Kevin has extensive experience litigating directors and officers (D&O), errors and omissions (E&O), and property and casualty (P&C) coverage under both primary and excess policies. He has served as both lead settlement and trial counsel in highly sensitive business and coverage disputes. He also advises clients on insurance-policy drafting and underwriting issues.

As co-chair of the Data Security & Technology Practice Area, Kevin represents businesses facing first- and third-party losses due to data breaches, service interruptions, theft, and other cyber threats. He also counsels clients on contract drafting and coverage for cyber risks and represents them in liability and coverage disputes.

In addition to his practice, Kevin is the host of *Barclay Damon Live: Cyber Sip*, the firm's biweekly cybersecurity podcast.

Bar Associations

- American Bar Association
- New York State Bar Association

Selected Memberships & Affiliations

- CLM Alliance
- Defense Research Institute
- Professional Liability Underwriting Society

Representative Experience

Insurance Coverage

- Won a no-cause verdict as lead trial counsel in a $100 million coverage and bad-faith case involving payment for defective roofing shingles.
- First-chaired the trial of an insurance-coverage case involving construction defects in a residential housing tract.
- Won a jury verdict as lead trial counsel for an international advertising agency seeking payment for a multimillion-dollar ad campaign.
- Served as lead trial counsel in the defense of a coverage and bad-faith case involving employment-discrimination claims.
- Served as lead trial counsel for primary and excess insurers in a direct action under New York Insurance Law § 3420(a) involving "hired auto" coverage for an underlying wrongful-death case.
- Served as lead coverage and settlement counsel in a complex, priority-of-coverage dispute arising out of a Chelsea Piers construction accident involving a "grave injury."
- Recovered $3.5 million for an umbrella insurer in a DJ action against a primary EL insurer arising out of a construction-related motor-vehicle accident, prevailing in state trial and appellate courts.
- Won summary judgment and appeals in several cases involving late notice under New York Insurance Law § 3420(d).
- Represented excess insurers in several coverage disputes arising out of construction-defect, Labor Law, and negligence claims.
- Served as lead counsel for businesses and insurers in disputes involving liability and insurance coverage for CVA and other sex-abuse claims.
- Served as lead coverage and settlement counsel for insurers in "multi-tower" D&O insurance-coverage disputes arising out of shareholder-derivative actions and class actions.

Data Security & Technology

- Represented clients as a "breach coach" in BEC, ransomware, and other cyber incidents.
- Counseled clients in regulatory matters arising out of reporting cyber incidents.
- Represented public and private entities in the negotiation and drafting of management and vendor agreements dealing with data-security, indemnification, and cyber-insurance issues.
- Defended clients in data-breach class actions arising out of alleged privacy and information-security violations.
- Represented financial clients in multiple data-security lawsuits alleging inadequate security controls.

- Defended a liability insurer in a coverage action arising out of the settlement of privacy claims under the Illinois Biometric Privacy Act.
- Provided strategic advice to clients concerning their coverage under cyber-insurance policies.

Prior Experience

- Hodgson Russ LLP, Partner

Selected Community Activities

- Buffalo Center of Arts and Technology, Board Member
- Greater Buffalo Youth Orchestra, Former Board Member
- St. Francis High School, Former Member, Board of Trustees Chair; Former Mock Trial Team Attorney Coach

Selected Honors

- *The Best Lawyers in America*®: Buffalo "Lawyer of the Year": Insurance Law, 2014–2015, 2027
- *The Best Lawyers in America*®: Insurance Law, 2013–2027
- Selected to *Super Lawyers* Upstate New York: Insurance Coverage, 2010–2026
- New York State Bar Association, Empire State Counsel, 2024

Selected Speaking Engagements

- LeadingAge New York Annual Conference & Exposition, "From Compliance to Courtroom: A Guide for Health Care Leaders"
- Lexeprint Inc., "Understanding Cyber Insurance: Why Arbitration May Make Sense for Your Policy" Webinar
- University at Buffalo Law Alumni Association / LAA GOLD Group, "Ethical Practice in the Virtual World" CLE
- Barclay Damon LLP, “Health Care Cybersecurity Breaches: How to Respond to a Security Incident” Webinar
- New York State Bar Association Construction Site Accident Claims & Litigation Seminar, Chair and “The Interplay of Workers’ Compensation Issues in Construction Claims,” and “Emerging Issues in Construction Defect Claims” Presenter
- New York State Bar Association Municipal Law Section, “The Evolving Cyber Threat: What Every Public Entity Needs to Know to Protect Itself”

Selected Media

- Law.com Pro Mid-Market, "Midsize and Smaller Law Firms Are Facing More Data Breach Threats"
- *Cybersecurity Law & Strategy*, "When AI Gets It Wrong: Managing the Legal Risk of Hallucinations in Business Decision-Making"
- *Buffalo Business First*, "Attorneys Warn That All Companies Should Be Prepared for a Ransomware Attack"; "Beyond the Breach: How WNY Companies Reacted to Cyber Attacks"; "Table of Experts: AI Is Coming to Your Industry – Are You Ready?"
- Nasdaq *TradeTalks*, "Cybersecurity Litigation Trends on the State and Federal Levels"; "Why the Public and Private Sectors Must Collaborate to Develop Adaptive Cybersecurity Standards"
- *Corporate Compliance Insights*, "Top Stories of 2024"
- InformationWeek, "23andMe $30M Data Breach Settlement: How Valuable Is Genetic Data?"
- Law360 Pulse, "Barclay Damon Restructures Cybersecurity, IP Groups"
- *Buffalo Law Journal*, “Cyber Insurance: A Safeguard”
- *Buffalo Law Review*, “Searching for the Plain Meaning of the Second Amendment”
- *New York Law Journal*, "Welcome Clarity: The Priority of Coverage in Construction-Accident Cases"

Selected Alerts & Blog Posts

- Court to Weigh Key Privacy Issues in Web Tracking Case Against Cigna
- New York State Adopts Key Changes to Nation-Leading Cybersecurity Rules for Financial Industry
- DHS Issues Security Directive for Pipelines
- Ransomware Remains a Booming Criminal Enterprise—Regulators Look to Slow It Down
- The Potential Monetary Consequences of a Data Breach Serve as a Strong Reminder to Proactively Address Cybersecurity Concerns

Selected Podcasts

- *Barclay Damon Live: Cyber Sip*—"AI Safety and the Quantum Threat: What Businesses Need to Know"
- *Barclay Damon Live: Cyber Sip*—"The Data Center Backlash: A Real Problem—or a Panic America Can't Afford?"

- *Barclay Damon Live: Cyber Sip*—"New York Hits the Brakes on Big Data Centers: What You Need to Know"
- *Barclay Damon Live: Cyber Sip*—"When AI Goes Rogue: Who's Really in Control?"
- *Barclay Damon Live: Cyber Sip*—"The Leadership Truth About Compliance: It's Not Just Technical, It's Cultural"