

Bob Heary

He | Him | His

Partner

Buffalo

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Education

- University at Buffalo School of Law, *Cum Laude*, JD
- University at Buffalo, BS

Practices & Industries

- Labor & Employment
- Corporate

Admitted to Practice

- New York

Court Admissions

- US Court of Appeals for the Second Circuit
- 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
- US Supreme Court

Biography

Bob is Barclay Damon's Labor & Employment Practice Area chair.

Bob represents employers and their management teams in all aspects of labor and employment law. He advises public, private, and not-for-profit businesses as well as municipal employers on labor and employment matters, including compliance with applicable labor and employment laws, labor-management relations, developing and implementing employment practices and policies, managing employee-performance issues, and business acquisitions and divestitures.

Bob also represents employers in federal and state court actions as well as in administrative proceedings involving federal and state agencies, including the US Equal Employment Opportunity Commission, the NYS Division of Human Rights, the National Labor Relations Board, the NYS Public Employment Relations Board, the Occupational Safety and Health Administration, and the NYS and US Departments of Labor.

Bob's practice includes counseling and representing management in union-organizing campaigns, collective-bargaining negotiations, and grievance and arbitration proceedings. He also defends employers charged with discrimination, breach of contract, wrongful discharge, wage-and-hour violations, unfair labor practices, and other employment disputes. In addition, Bob represents employers in the enforcement of restrictive covenants involving confidentiality and noncompetition.

In addition to his practice, Bob is a member of the Opportunity, Inclusion & Belonging Partner Committee and serves as the co-partner for these initiatives in the firm's Buffalo office.

Bar Associations

- American Bar Association
- New York State Bar Association
- Bar Association of Erie County

Representative Experience

- Obtained dismissal of a federal court complaint alleging claims of discrimination and retaliation against a pharmaceutical manufacturer and three individual managers under Title VII, the Uniformed Services Employment & Reemployment Act, Section 1981, the 14th Amendment, and the Equal Pay Act; after discovery, obtained summary judgment on a refiled complaint alleging Title VII and Section 1981 claims against the corporate defendant.
- Successfully defended a US affiliate of a Canadian manufacturing company that supplies the oil and gas industry against unfair-labor-practice charges filed by several former employees following an unsuccessful union-organizing attempt.
- Successfully represented the former Lackawanna City School District Board of Education president, another co-defendant, the Board of Education, and the school district in connection with claims of discrimination, retaliation, and harassment pursuant to Title VII and Section 1983 brought by three former employees of the school district, resulting in the voluntary dismissal of the claims against the former school board president.
- Obtained summary judgment on behalf of a large medical practice located in Utica, New York, in connection with a national-origin discrimination claim by a former employee.
- Defended a US subsidiary of a South American food manufacturer against unfair-labor-practice charges filed by several former employees following an unsuccessful union-organizing attempt at the employer's facility, resulting in the dismissal and withdrawal of all charges.
- Obtained summary judgment that was sustained on appeal to the US Court of Appeals for the Second Circuit on behalf of a high school principal who was a co-defendant with the Buffalo Board of Education in a Section 1983 First Amendment retaliation claim.
- Resolved a class-action race discrimination lawsuit brought by the US Equal Employment Opportunity Commission on behalf of more than 70 current and former employees against a large commercial-roofing contractor.
- Obtained partial summary judgment, partial jury verdict and, ultimately, judgment as a matter of law that was affirmed on appeal to the US Court of Appeals for the Second Circuit in

connection with a same-sex sexual harassment and retaliation claim brought by a former employee against a nuclear power plant operator.

- Obtained summary judgment on behalf of a US subsidiary of a Japanese manufacturing company in connection with claims of age discrimination and breach of contract.
- Resolved a class-action sexual harassment lawsuit brought by the US Equal Employment Opportunity Commission on behalf of 18 current and former women employees against a distribution company.

Prior Experience

- Hiscock & Barclay, LLP, Partner
- Cohen, Swados, Wright, Hanifin, Bradford & Brett, LLP, Partner

Selected Community Activities

- Bar Association of Erie County Volunteer Lawyers Project, Former Board of Directors Member
- University at Buffalo School of Law Alumni Association, Former President and Board of Directors Member

Selected Honors

- *The Best Lawyers in America*®: Employment Law – Management, 2013–2027
- Selected to *Super Lawyers* Upstate New York: Employment & Labor, 2007–2026
- *The Best Lawyers in America*®: Buffalo "Lawyer of the Year": Employment Law – Management, 2021

Selected Speaking Engagements

- Barclay Damon, “Conducting Effective Sexual Harassment Investigations” Webinar

Selected Media

- *Buffalo Law Journal*, “New York Enacts Sweeping Sexual Harassment Legislation”

Selected Alerts & Blog Posts

- FTC Noncompete Rule Survives—For Now

- New York State Passes Law Barring Employers From Mandating Employee Attendance at Captive Audience Meetings
- NLRB General Counsel Issues Memo Targeting Noncompete Covenants: What Employers Need to Know
- NYS Governor Hochul Signs Bill Requiring Posting of Veterans' Benefits and Services
- SCOTUS Strikes Down OSHA Vaccinate-or-Test Rule, but Allows CMS Mandate to Proceed