BARCLAY DAMON LLP

Jen Flannery

She | Her | Hers

Partner

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Education

- University at Buffalo School of Law, *Cum Laude*, JD
- State University of New York at Binghamton, BA

Practices & Industries

- Trusts & Estates

Admitted to Practice

- New York

Biography

Jen serves as Barclay Damon's Trusts & Estates Practice Area co-chair. Her practice focuses on trusts and estate litigation, planning, and administration, with her litigation practice including will and trust contests; fiduciary litigation; and will-construction, fiduciary-removal, accounting, spousal-rights, and kinship proceedings.

Jen also works with fiduciaries, beneficiaries, and creditors and handles litigated guardianship cases and guardianship and supplemental-needs trust matters. She is certified with the NYS Office of Court Administration to receive fiduciary appointments as court evaluator, guardian, guardian ad litem, receiver, referee, and attorney for alleged incapacitated persons. Jen has significant experience working with individuals on marital agreement plans, including pre-nuptial and post-nuptial agreements; working with clients regarding business-succession planning; and handling planning involving sophisticated transfer and income-tax considerations.

In addition to her role at Barclay Damon, Jen serves as the Erie County public administrator.

Bar Associations

- American Bar Association
- Bar Association of Erie County
- New York State Bar Association, Trusts and Estates Section & Estate Litigation Subcommittee Member

Selected Memberships & Affiliations

- Barclay Damon Women's Forum
- Estate Analysts of Western New York
- Surrogate's Court Practice Subcommittee

Representative Experience

- Successfully engineered a global settlement among the co-trustees and the beneficiaries on the verge of all-out litigation. The litigation would have lasted for many years and significantly drained the estate's assets, which were intended to support the matriarch's family for generations to come.
- Represented a professional fiduciary against a claim for breach of the prudent investor rule and had the claim dismissed.
- Represented fiduciaries in complex accounting proceedings commenced by dissatisfied beneficiaries after claims of breach of fiduciary duty and self-dealing. Successfully negotiated a settlement resulting in significant tax savings to the executor that covered all litigation and settlement costs and additionally resulted in a tax windfall for the executors and the decedent's other beneficiaries.
- Provided representation in matters involving electronic discovery where emails were discovered documenting a third-party's efforts to unduly influence an elderly testator to leave his significant wealth instead of benefitting charitable organizations, as was his long-established testamentary plan.
- Represents large corporate fiduciaries regarding fiduciary duties and the investment of trust and estate assets under the NY Prudent Investor Rule.
- Represents young families and multi-generational families in creating trusts to transfer business interests to children.
- Drafts wills, trusts, and other estate-planning documents, including establishing and dissolving tax-exempt organizations; life-insurance planning; estate planning related to unique assets such as art and other collectibles; and administering estate transfers from generation to generation.
- Acted as co-counsel and special counsel on matters given by general practitioners who need additional assistance in certain aspects of the administration or litigation of a particular estate or trust matter to best serve the client.
- Created a complex estate plan for Native American clients with $20 million in assets, including balancing issues with treaty exclusions from a restriction on transfers perspective and federal estate and transfer tax exemptions, restructuring assets, handling issues for the succession of closely held business interests operating on restricted lands, and restructuring holdings into LLCs.

- Settled an estate involving a fiduciary qualification contest, including handling issues with an ineffective residuary disposition to a non-existing charitable remainder unitrust with a corresponding NYS Department of Tax & Finance ramification on charitable deduction availability; construction issues relating to the application of an in terrorem clause for purposes of the fiduciary-beneficiary's interest in the estate proceeding; and issues involving appeals pending for commercial litigation before the time of the decedent's death related to the closely held business interest and sale to a purchaser now in bankruptcy proceedings.
- Represented a 57-year-old woman who was alleged to be incapacitated against an application under Article 81 of the Mental Hygiene Law. The petitioner obtained an improper temporary order effectively imposing a plenary guardianship on an ex parte basis in deprivation of the client's constitutional rights to due process. Successfully lifted the guardianship and achieved a global settlement of both personal needs and property management issues without the drastic measure of plenary guardianship structure.

Prior Experience

- Damon Morey LLP, Special Counsel
- University at Buffalo School of Law, Estate Planning Teaching Assistant

Judicial Clerkships

- Erie County Surrogate’s Court

Selected Community Activities

- University at Buffalo Alumni GOLD Group, Treasurer and Education Committee Chair
- Canisius College Women’s Business Center, Advisory Board Member and Coaching Committee Member
- Buffalo Prenatal Perinatal Network, Board of Directors Member and Personnel Committee Member
- Community Foundation for Greater Buffalo, Inc., Former Professional Advisory Committee Member

Selected Honors

- *The Best Lawyers in America*®: Litigation – Trusts and Estates, 2021–2027; Trusts and Estates, 2023–2027
- Selected to *Super Lawyers* Upstate New York: Estate & Trust Litigation, 2024–2026
- *The Best Lawyers in America®:* Buffalo "Lawyer of the Year": Trusts and Estates, 2024
- Buffalo Niagara Partnership, ATHENA Young Professional Leadership Award, 2020
- Selected to *Super Lawyers* Upstate New York Rising Stars: Estate & Probate, 2014; Estate & Trusts Litigation, 2015–2017
- *Buffalo Business First*, Legal Elite of Western New York, 2013

Selected Speaking Engagements

- New York State Bar Association, “Ethics in Home Care”
- New York State Bar Association, “Misc. Proceedings, Wrongful Death, and Guardian Ad Litem in Supreme and Other Courts”
- New York State Bar Association, “Motion Practice in Surrogate’s Court”
- New York State Bar Association Trusts and Estates Section Annual Fall Meeting, “Accounting Objections”
- New York State Bar Association, “Burden of Proof at Trial”

Selected Media

- *New York Law Journal*, "Disclosure Considerations for Fiduciary-Controlled Business Interests: Protecting and Obtaining Confidential Information"
- *Buffalo Law Journal*, “Planning for Changes in Disabilities Law”

Selected Alerts & Blog Posts

- Estate Planning Lessons From Prince
- Estate Planning and Digital Assets
- The Importance of a Power of Attorney for Long-Term Care Planning
- What Happens When You Revoke a Last Will and Testament in New York State?