



Charles Nerko

Partner

New York, Albany

P: 212.784.5807

cnerko@barclaydamon.com

Education

- Fordham University School of Law, *Cum Laude*; *Fordham Law Review*, Notes & Articles Editor, JD
- Fordham University, *Summa Cum Laude*, BA

Practices & Industries

- Data Security & Technology
- Commercial Litigation & Complex Trials
- Financial Institutions & Lending
- Intellectual Property Litigation

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 Supreme Court

Biography

As team leader for data security litigation in Barclay Damon's Data Security & Technology Practice Area, Charles provides clients with effective solutions to safeguard vital business relationships, confidential information, digital assets, and reputations. Charles represents financial institutions and businesses nationwide in complex commercial litigation involving technology outsourcing, IT systems, payment processing, artificial intelligence (AI), trade secrets, cybersecurity, and commercial contracts.

Charles takes decisive measures against technology vendors, competitors, and others who jeopardize business interests or misappropriate confidential information. He recently served as the lead counsel for the US Courthouse SDNY Federal Credit Union, the financial institution for federal judges and court employees, achieving success in data security and contract exit litigation against its technology provider. Competitor law firms have also turned to Charles in matters involving legal ethics and the protection of privileged information.

Charles is not only a litigator but also a trusted advisor who diligently attempts to achieve outcomes that boost business value and reduce legal risks prior to any litigation being filed. A substantial portion of his practice involves advising banks and credit unions in core processing contract negotiations, deconversions, and contract exits. Clients also turn to Charles for practical guidance on a wide array of legal issues, from routine risk management to high-stakes strategic matters.

Additionally, Charles volunteers as the chaplain and advisory board chair of his community's rescue squad, and he dedicates his pro bono practice to emergency medical services advocacy and education.

Bar Associations

- Federal Bar Council
- Chaminade Lawyers' Association

Selected Memberships & Affiliations

- Phi Beta Kappa
- International Association of Privacy Professionals

Representative Experience

- Advising numerous banks, credit unions, and businesses on outsourced technology contracts.
- Represented a nationally renowned performing arts group in a dispute involving ownership of its social media accounts.
- Defended the New York Credit Union Association in a dispute with a technology vendor.
- Represented a data center owner in a data security incident and negotiated confidential pre-litigation settlements with the responsible vendor and affected customers.
- Defended an accounting firm in a dispute with a rival firm arising from the alleged misappropriation of the competitor's confidential information, and defeating the competitor's application for a preliminary injunction.
- Obtained a temporary restraining order and preliminary injunction requiring a client's competitor to cease disparaging the client.
- Prosecuted trade secret misappropriation claims on behalf of a leading optics manufacturer.
- Advising entertainers and corporate executives on strategies to protect their personal information and respond to extortion attempts.
- Won a favorable arbitration award as lead counsel in an equipment leasing dispute.
- Served on the trial team for a prominent bank in aircraft finance and collection litigation and obtained a substantial settlement after presenting the client's case-in-chief.
- Representing numerous foreign financial institutions and judgment creditors in enforcing foreign judgments in New York.
- Defended a bank accused of infringing copyrights in electronic news publications.
- Obtained dismissal of a securities fraud class action brought against a professional services firm.

- Defeated several Section 1782 applications seeking discovery from law and accounting firms.
- Served as national coordinating counsel in multistate litigation arising out of a corporate merger.
- Represented a nationally known entertainment company in a dispute concerning access to Michael Jackson's medical records.
- Won dismissal of misconduct charges against a college instructor in a Title IX proceeding.
- Advising clients on complex discovery issues, including discovery strategy, cost recovery, privilege protection, evidence spoliation, international discovery, and discovery abuse.

Prior Experience

- Offit Kurman, PA, Principal
- Vedder Price PC, Associate
- O'Melveny & Myers LLP, Associate

Judicial Clerkships

- US District Court for the Southern District of New York, Chief Judge Loretta A. Preska

Selected Community Activities

- Fordham University Advisory Board, Member
- New York City Bar Association New Lawyer Enrichment Program, Faculty

Selected Honors

- Selected to *Super Lawyers* New York Metro Rising Stars: General Litigation, 2015–2024
- Empire State Counsel Honoree, 2010
- Fordham University School of Law, Archibald R. Murray Public Service Award, 2009
- Fordham University School of Law, Moot Court Board, 2007–2009
- Fordham University School of Law, Legal Writing Award, 2007

Selected Speaking Engagements

- Credit Unions Unite Conference, "Vendor Vexation: Advanced Tactics for Credit Unions to Regain Control of Third-Party Relationships"
- Michigan Department of Insurance and Financial Services, "Emerging Issues in Financial Institution Third-Party Risk Management"
- Inclusiv (National Federation of Community Development Credit Unions), "Negotiating and Exiting Technology Vendor Contracts"
- New York Credit Union Association's Compliance & Legal Conference, "Contracts & Vendor Due Diligence"
- University of Vermont Health Network/Elizabethtown Community Hospital, "Privacy & Risk Management"
- St. John's University School of Law's Cyber Law Symposium, "Attorney-Directed Incident Response"

Selected Media

- *New York Law Journal*, "Hacking the Contract: How Cybersecurity Failures Can Be a Business's Best Bargaining Chip"
- *The Fintech Times*, "As AI Grows, So Do Its Challenges: Industry Reveals Technology's Biggest Hurdles"
- The CU Daily, "BEC: The Hidden Threat Credit Unions Keep Overlooking"
- *The Heller Report*, "Mitigating the Legal Risks of AI Systems"
- *Corporate Compliance Insights*, "Top Stories of 2024"
- *American Banker*, "Harper's Warning on Vendors Should Spur Credit Unions to Act"
- InformationWeek, "AI Is Creating New Forms of Liability. How Can It Be Managed?"
- CyberNews, "I Asked Cybersec Pros for Top Picks on a Secure Smartphone: Here's What They Said"
- *Credit Union Times*, "Breaking Free: Strategies for Credit Unions to Navigate Vendor Terminations"
- *Credit Union Times*, "Safeguarding Credit Unions Amid Litigious Seas"
- *Credit Union Times*, "Protecting Your CU in Core Processing & Outsourced Technology Contracts"
- American Bankers Association's *ABA Banking Journal*, "Staving off Tech Litigation With Smarter Contracts"
- *USLAW Magazine*, "Technology Contract Traps and Tactics"
- PYMNTS, "Potential Shifts in AI Accountability: Legal Experts Weigh in on Future Liability Concern"

Selected Alerts & Blog Posts

- Recent NYS Attorney General Data Security Settlement Highlights Importance of Addressing Security Deficiencies and Managing Vendor Relationships

Selected Podcasts

- *Barclay Damon Live: Cyber Sip*—"10 Traps in Technology Contracts, With Charles Nerko"