

People



David F. Bayne

Partner, Litigation
Professional Liability

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David Bayne litigates complex, high profile commercial disputes and arbitration matters with a focus on professional liability defense, general commercial, and employment litigation. His clients include law firms, manufacturers, insurers, investors, information service providers, educational institutions, and individuals. He also counsels law firms and lawyers on issues involving legal ethics, the Rules of Professional Conduct and, together with partners from other firm practice groups in the firm, on law firm structure and partnership issues. David primarily litigates in the federal and state courts of New York but has appeared in courts in various parts of the country as well as in arbitration forums sponsored by the American Arbitration Association, JAMS, and the International Chamber of Commerce.

In his professional liability practice, David has represented lawyers and law firms accused of malpractice and professional misconduct as well as claims that lawyers have violated various state and federal laws in connection with complex commercial and real estate transactions, trusts and estates matters and other tort, fraud, and contract actions. David also provides continuing legal education presentations on legal ethics for firm clients and legal industry groups.

In his general commercial practice, David has litigated numerous disputes involving complex commercial transactions, commercial real estate, and claims involving high net worth individuals and their estates. David's experience in the general commercial area ranges from representing a large commercial information service provider in its efforts to combat piracy and theft of its data to representing a national wine and spirits distributor in various commercial disputes in state and federal court. He has also acted as monitoring and coverage counsel for a large European insurer and has represented a New York college in various litigation matters for more than 25 years.

Notable Work

Areas of Experience

Professional Liability
Litigation
Financial Institutions Commercial Litigation
Probate and Fiduciary Litigation

Education

J.D., Columbia Law School, 1988
B.A., Saint Lawrence University, History, 1983, *magna cum laude*, Phi Beta Kappa

Admissions

Bars

New York

Courts

U.S. Court of Appeals, Second Circuit
U.S. District Court, Eastern District of New York
U.S. District Court, Southern District of New York

Related Content

David Bayne to Speak on Personal Interest Conflicts in Litigation
May 02, 2024

New York Law Journal: Akerman Partner David Bayne Cautions Lawyers on City's New Professional Conduct Rule
July 22, 2022

Akerman Partner David Bayne Leads Effort to Unify Connecticut CASA as its Board President
July 28, 2021

Legal Ethics: Provides ethics advice to the in-house law firms of various property and casualty insurers on issues involving the tripartite relationship and insurance staff counsel, including providing continuing legal education presentations to staff counsel lawyers and management.

Professional Liability: Successfully defended insurance staff counsel lawyers and law offices accused of malpractice, conflicts of interest, and breaches of fiduciary duty in multiple matters.

Professional Liability: Represented a law firm and two of its lawyers accused of negligently drafting a complaint alleging claims under New York's Business Corporation Law section 720. The underlying case was dismissed without leave to replead based on an alleged pleading defect. The malpractice action was dismissed because of the plaintiff's lack of standing and his failure to plead facts showing that the firm did not meet the standard of care. The dismissal was affirmed on appeal.

Commercial Litigation/Government Investigation: Represented an educational institution in a multiyear investigation and litigation concerning issues primarily involving its admissions and financial aid policies and procedures.

Professional Liability: Represented a lawyer accused of malpractice, breach of fiduciary duty, and fraud in multiple matters over 15 years arising from his work in providing tax shelter opinions later found to be abusive tax shelters by the Internal Revenue Service. All cases were either settled on favorable terms or were dismissed.

Professional Liability: Represented a law firm accused of negligently conducting a human resources audit of several affiliated companies operating in multiple states allegedly causing one of the affiliates to be sued in a wage and hour class action and to be threatened with a second class action. The case ended in a favorable settlement including the reestablishment of the attorney-client relationship between the law firm and the plaintiff.

Professional Liability: Represented a law firm accused of knowingly aiding and abetting a client in perpetrating an alleged real estate fraud in a complex transaction in which the non-client plaintiff alleged that it lost title to certain commercial real estate it owned. All claims against the law firm and its lawyer were dismissed.

Professional Liability: Represented an attorney for a major boxing promoter who was sued in federal court, along with the promoter and an international boxing association, for allegedly engaging in a conspiracy to favor the promoter's boxers over other boxers who held higher rankings for title bouts. Claims against the attorney included Judiciary Law Section 487 (fraud against the court), RICO, tortious interference with contract and other alleged torts. All claims against the lawyer were dismissed on summary judgment.

Law Firm Practice: Counsels law firms and lawyers on various partnership, real estate and employment issues and disputes.

Professional Liability/Government Investigation: Successfully represented a law firm in responding to a SEC subpoena for client files.

Trusts & Estates Litigation: Represented a trustee of two large family trusts in protracted litigation with one of the beneficiaries alleging various breaches of fiduciary duty. The disputes resulted in

multiple petitions in New York's Surrogate's Court and ultimately resulted in a favorable settlement for the trustee.

Trusts and Estates Litigation: Successfully represented a trustee in litigation alleging the diversion of trust assets by the trust's beneficiary. After moving to dismiss the complaint in New York State Supreme Court, the plaintiff withdrew the action and ultimately settled the overall dispute on favorable terms to the trustee during the trustee's accounting in Surrogate's Court.

Insurance: Acted as insurance coverage and monitoring counsel on a claim arising from a large maritime disaster resulting in more than \$200 million in cargo and vessel damage and personal injury.

Data Theft/Piracy: Proposed, developed and implemented a data piracy monitoring and compliance program for a commercial information service provider leading to the recovery of substantial revenue for the client from the theft of unlicensed data.

Limited Liability Company Dispute: Represented a member of a limited liability company in successfully removing its managing member for breach of fiduciary duty in managing certain commercial real property in New York City in an expedited arbitration before JAMS.

Published Work and Lectures

- ACC Insurance Staff Counsel Annual Winter Meeting on Legal Ethics, Seminar Speaker, 2022-2024
- *New York Law Journal*, Author, "Is NY's New Professional Conduct Rule 8.4(g) Heading to the Courts?" July 15, 2022
- *New York Law Journal*, Author, "ABA Formal Opinion 483: What Are a Lawyer's Obligations After a Data Breach or Cyberattack?" April 22, 2019
- *Law360*, Co-Author, "Is It Time To Repeal NY's Ancient Attorney Deceit Statute?" April 19, 2016

Affiliations

- Connecticut CASA Association, Board of Directors, President
- New York State Bar Association, Committee on Standards of Professional Conduct, Member
- American Bar Association, Member
- New York State Bar Association, Member
- Berkeley College, Paralegal Advisory Board, 2000-2013; Legal Studies Advisory Board, Member 2014-Present
- Connecticut League of Women Voters, Transportation Specialist 2014-2016
- Darien, Connecticut Selectman, 2007-2013
- Darien, Connecticut Democratic Town Committee, 2005-2007 and 2014-Present, Treasurer 2006-2007, Vice Chairman 2014, Chairman 2015-2022
- Darien, Connecticut, Weed Beach Building Committee, Member, 2007-2012
- Darien, Connecticut Representative Town Meeting 2004-2007, 2015-Present, District Chair, 2004-2007; Chair of Public Works Committee 2005-2007
- Darien, Connecticut Board of Ethics 2016-2023, 2024-Present
- St. George's School, Middletown, R.I. Alumni Board of Visitors 2014-Present