

Nicholas P. Chrysanthem

Shareholder

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New York – 212.376.6454



Nicholas is a member of the Professional Liability Department where his practice is focused on the representation of law firms, attorneys, employers and agents and brokers, in state and federal courts.

An experienced trial attorney and litigator for over 30 years, Nicholas defends clients in matters involving legal malpractice, employment litigation, real estate litigation, complex commercial litigation, ADA public accommodation and ADA class action litigation. Nicholas has experience practicing before the New York State Division of Human Rights and the New York City Human Rights Commission. He has also been retained by clients to consult on risk avoidance matters and as a trial expert. Nicholas has lectured on evidence and trial practice at various continuing legal education seminars.

Nicholas has significant experience defending owners and contractors in actions arising out of New York Labor Law and New York Industrial Code violations. His experience in litigating commercial and tort disputes provides clients with the ability to understand a variety of underlying matters that are often the basis of legal malpractice actions.

Nicholas graduated with his Bachelor of Arts in Communication Arts from Iona College in 1982. In 1988, he earned his *juris doctor* from Fordham University School of Law and received the American Jurisprudence Award in Torts.

Prior to joining Marshall Dennehey, Nicholas was a member of a New York firm where he focused his practice on the defense of law firms and attorneys in legal malpractice actions, commercial and corporate litigation, and cases brought under New York's Labor Law.

Practices

- Lawyers' Professional Liability
- Disciplinary Board Representation
- Employment Law
- Commercial Litigation
- Miscellaneous Professional Liability
- Non-Profit D&O
- Insurance Agents & Brokers Liability
- Accountants' Professional Liability
- Catastrophic Claims Litigation

Education

- Fordham University School of Law (J.D., 1988)
- Iona University (B.A., 1982)

Admissions

- New York, 1989
- New Jersey, 1988
- U.S. District Court District of New Jersey
- U.S. District Court Eastern District of New York
- U.S. District Court Southern District of New York
- U.S. Court of Appeals 2nd Circuit

Honors & Awards

- New York Metro Super Lawyers (2021-2026)

Associations & Memberships

- American Bar Association, Trial Evidence Committee; Employment Law Section; Tort Trial and Insurance Practice Section; and Section of Litigation
- DRI, Employment and Labor Law Section, Professional Liability Section, and Commercial Litigation Section
- New York State Bar Association, Law Practice Management Committee 2013-Present, Labor and Employment Law Section
- New York Trial Notebook Editorial Advisory Board, 2005

Classes/Seminars Taught

- *Professional Responsibility*, Columbia University School of Law, Guest Speaker, June 2021
- *Employment Law Seminar*, ACEC, Albany, New York, Presenter, January 2019
- *Legal Malpractice: How to Avoid it, What to do If You Can't*, Lecturer
- *Legal Malpractice and Ethics*, Brooklyn Law School, Solo Practice Seminar, Lecturer
- *ESI For Dummies, What Every Legal Team Should Know, The Lawyers Guide to ESI Forensics 101*, New York State Bar Association, Moderator

Significant Representative Matters

- Obtained summary judgment in a legal malpractice case alleging failure to properly cancel a real estate contract and alleging loss of a \$175,000 security deposit and unspecified loss of opportunity income.
- Successfully had a pre-answer motion to dismiss granted. The plaintiff, a practicing attorney, sued our client, an insurance broker, alleging that she was an additional insured under an insurance policy for her contractor, who ruined her kitchen. The motion was granted unopposed.
- Successfully had a motion to dismiss a legal malpractice case pre-answered granted. The plaintiff used our client as an attorney because his associate neglected to oppose a threshold motion in the underlying auto case. The underlying court granted that

motion in-part and denied it, in-part. The plaintiff retained a new attorney without firing our client. The new attorney commenced a malpractice action against our client and refused to substitute as attorney of record in the underlying action. We moved to dismiss the case on a number of issues pre-answer, but primarily because it was premature and the plaintiff could not prove that but for the failure to oppose the motion, he would have prevailed in overcoming the threshold.

- Successfully had a pre-answer motion to dismiss granted as the court declined to apply supplemental jurisdiction over the state law claims. Plaintiffs commenced this action against our client for violation §1983 and other state law tort and discrimination claims. Our motion to dismiss the first complaint was granted and plaintiffs were given the opportunity to amend, which they did. We moved to dismiss the amended complaint pursuant to FRCP 12(b)(6), which was granted by the court.
- Was granted a motion to dismiss a legal malpractice case where the plaintiff claimed that the settlement she entered into at trial was the result of our client not being prepared. Plaintiff allocuted on the record, yet she claimed, in opposition to our motion to dismiss that she had a condition that forced her to answer “yes” instead of “no” when she is under stress. Plaintiff submitted a note from a psychiatrist that backed up her claim. We successfully argued that the plaintiff was properly allocuted on the record before the court. The presiding judge asked the questions and determined that her condition was manufactured subsequent to her allocution. We convinced the judge that if a client could make up a condition because she was unhappy with a settlement, there would be no more settlements.
- Successfully obtained dismissal on a Rule 12(b)(6) pre-answer motion to dismiss of a 42 U.S.C. §1983 civil rights case against our clients. Plaintiff claimed that our clients acted under color of state law in having her arrested for harassment. Plaintiff alleged various causes of action for false arrest, abuse of process, malicious prosecution, conspiracy, and intentional and negligent infliction of emotional distress. The court rejected plaintiff’s claims even though our client was a retired police officer with significant contracts with the police department and DA’s office.
- Obtained defense verdict after jury trial in U.S. Dist. Court, S.D.N.Y in the matter of Flushing Bank v. AGCS Marine Insurance Company, 16-CV-2638 (RJS) in breach of contract action arising out of a claim by a loss payee.
- Obtained Multiple "No Probable Cause" determinations from New York State Division of Human Rights in favor of Employer-Clients
- Obtained favorable resolutions of Federal ADA Class Action lawsuits
- Obtained pre-answer dismissal of adversary proceeding against law firm-client arising out of underlying bankruptcy proceeding
- Obtained a defense verdict after a five-day jury trial in a legal malpractice action arising out of an underlying divorce case
- Obtained reversal of a denial of summary judgment from the New York Appellate Division, Second Department in a legal malpractice action
- Obtained voluntary dismissal with prejudice of action against attorneys based on underlying commercial real estate matter
- Obtained favorable result in complex software copyright infringement case
- Obtained reversal of a decision re-instating a lead poisoning case after dismissal from the New York Appellate Division, Second Department
- Obtained favorable settlement including millions of dollars' worth of real estate in connection with resolution of complex shareholder litigation

Thought Leadership

February 1, 2025

Legal Updates for Lawyers' Professional Liability - CASE LAW UPDATE

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May 16, 2022

Negligent Infliction of Emotional Distress and Breach of Fiduciary Duty Claims Dismissed

May 16, 2022

Breach of Contract Cause of Action Dismissed as Duplicative of Legal Malpractice Claim.

May 16, 2022

Malpractice Case Against Guardian Ad Litem Dismissed Based on Immunity