



Vince Saccomando

Partner

Buffalo

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Education

- Boston College Law School, JD
- State University of New York at Buffalo, *Summa Cum Laude*

Practices & Industries

- Canada-US Cross-Border
- Insurance Coverage & Regulation
- Professional Liability
- Torts & Products Liability Defense
- Transportation

Admitted to Practice

- New York

Court Admissions

- US Bankruptcy Court for the Western District of New York
- 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 District Court for the Western District of New York

Biography

With 25 years of legal experience, Vince primarily concentrates his practice on insurance defense, professional-malpractice defense, and insurance coverage. He regularly represents clients in both state and federal court, defending both insureds and self-insureds in claims involving products liability, construction accidents, trucking accidents, large-scale property damage and fire loss, and premises liability. Vince has also defended products-liability claims involving a wide variety of industrial, commercial, and consumer products.

Vince has defended many cases involving wrongful death and catastrophic injuries, representing clients in general negligence and premises-liability claims involving diving accidents, fraternities, security companies, sexual-abuse claims, and dram-shop actions. He has also represented clients in toxic-tort cases involving mold and asbestos exposure. Additionally, Vince has extensive experience in litigating construction-accident cases brought under the New York State Labor Law, including prosecuting and defending contractual indemnification and additional insured disputes arising from these cases.

Numerous Canadian insurance carriers have retained Vince to defend their insureds sued in New York in connection with trucking and motor-vehicle accidents, premises-liability claims, and products-liability actions. He has also handled cases involving commercial vehicles. Vince has handled matters involving multiple vehicles, chain-reaction collisions, motorcycles, pedestrians, bicycles, intoxicated drivers, drivers with medical conditions, and loading and unloading accidents. He also represents insurance carriers in the prosecution and defense of property-damage claims involving motor vehicles, including subrogation actions. Vince has also dealt with vicarious-liability issues involving vehicle owners and employers, including permissive use issues, uninsured and underinsured claims, and NYS loss-transfer claims involving no-fault subrogation.

Vince regularly represents attorneys in the defense of legal-malpractice actions and has defended trustees against claims by the NYS Worker's Compensation Board and by trust members involving worker's compensation self-insurance trusts. As an appellate litigator, he has handled dozens of appeals in litigation matters and has successfully argued at the NYS Court of Appeals.

Vince's insurance-coverage practice includes defending and prosecuting declaratory judgment actions and handling appeals in coverage actions. He has handled a wide variety of issues in coverage cases, including analysis and litigation of priority of coverage, late notice, exclusions, misrepresentation claims, proof of lost insurance policies, manuscript endorsements, and additional insured provisions or first-party claims. Vince has also handled life-insurance actions.

Bar Associations

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

Selected Memberships & Affiliations

- Claims and Litigation Management Alliance
- Transportation Lawyers Association

Representative Experience

- Obtained a decision from the Court of Appeals reversing a NYS Appellate Division decision that permitted the plaintiff in a legal-malpractice action to pursue damages for pain and suffering resulting from alleged unjust imprisonment against his criminal-defense attorney, where the plaintiff claimed he was innocent of the crime for which he was convicted. The Court of Appeals agreed with the defendant's public-policy arguments as to why pain and suffering claims should not be permitted in attorney-malpractice actions and dismissed the plaintiff's complaint (*Dombrowski v. Bulson*).
- Obtained a defense verdict in a case in which the plaintiff truck driver claimed injuries due to a defective dock plate while unloading a tractor trailer (March 2017, Erie Co., New York).
- Obtained summary judgment in favor of a trucking company dismissing a wrongful-death case based on the argument that the driver of the other vehicle involved was the sole proximate cause of the accident (September 2011, Chautauqua Co., NY).
- Obtained a verdict at trial in favor of a joists manufacturer whose products were installed in the plaintiff's basement. The plaintiff claimed the joists contained mold spores at the time

they left the manufacturer's possession and alleged both property damage and personal injuries due to mold. The defense presented expert proof at trial, resulting in the jury's finding that the joists were not defective (2010, Monroe Co., NY).

- Obtained summary judgment dismissing the plaintiff's complaint in a wrongful-death case involving a street sweeper in which the plaintiff failed to follow proper procedure for adding the defendant as party to the action, and which was then time-barred (*Public Adm'r v. McBride*).
- Obtained reversal of a trial court's decision, resulting in a dismissal of a product manufacturer's third-party action against the client, the plaintiff's employer, by establishing that the plaintiff did not sustain a "grave injury" under the Workers' Compensation Law as he retained some, albeit severely limited, use of his hand following the accident at issue (*Trimble v. Hawker Dayton Corp.*)
- Obtained an appellate decision reversing the trial court's decision, holding that both the automobile carrier and homeowner's carriers were obligated to defend their insured against the plaintiff's complaint and co-defendant-client's cross-claim in a wrongful-death case in which the claims involved the negligent operation of a motor vehicle and failure to supervise (*Progressive Insurance Co v. Zurich Insurance*).
- Obtained summary judgment in favor of the defendant in a \$2 million fire-loss case by disproving the plaintiff's expert's causation theory through the defense expert's testing, establishing the defense expert could not prove his own causation theory due to the plaintiff-insurance carrier's spoliation of evidence after the fire (February 2004, Yates Co, NY).
- Obtained an appellate decision reversing trial court and holding that the plaintiff-passenger injured in a car accident involving vehicles driven by her coworkers was not entitled to supplementary underinsured-motorist benefits under her employer's automobile policy because the Workers' Compensation Law barred the plaintiff-employee from bringing an action for negligence against her coworkers (*Hauber-Molota v. Philadelphia Insurance Companies*).
- Established that the client was an additional insured on a co-defendant's carrier's policy, and that the co-defendant's carrier was required to share in the client's defense despite a limitation in the policy that additional-insured status applied only for vicarious liability. Also established that the client's work involved "ongoing construction operations," so as to require additional-insured coverage. Further, established that the "hold harmless agreement" included a duty to indemnify, despite not referring to "indemnification." (2012, Erie Co., NY).
- Obtained summary judgment for an insurance carrier, declaring it had no duty to defend its insured in a personal-injury action based on the insured's late notice to its carrier. The insured was the injured plaintiff's employer, had

knowledge of the plaintiff's workers' compensation claim, and had reported the accident to its workers' compensation carrier, yet failed to notify its general-liability carrier of the accident until a third-party action was filed against the insured. The summary-judgment motion was based on document discovery and notices to admit to avoid the expense of depositions as well as to avoid the possibility that deposition testimony would create issues of fact on late notice (October 2012, Monroe Co., NY).

Prior Experience

- Damon Morey LLP, Partner
- Damon Morey LLP, Associate
- Hurwitz & Fine, P.C., Associate
- Drake, Sommers, Loeb, Tarshis & Catania, P.C., Associate

Selected Community Activities

- Old Fort Niagara Association, Member

Selected Honors

- *The Best Lawyers in America*®: Insurance Law, 2021–2024; Product Liability Litigation – Defendants, 2023–2024
- Selected to *Super Lawyers* Upstate New York: Civil Litigation: Defense, 2012–2023

Selected Speaking Engagements

- New York State Bar Association, “Construction Site Accidents--The Trial of a Labor Law Case” CLE

Selected Media

- New York State Bar Association *Insurance Law Practice*, “Exclusions in Commercial General Liability Policies” Chapter
- *Without Prejudice*, “An Overview of Trial Practice in New York State and Federal Court”
- *Journal of the Ontario Insurance Adjusters Association*, “Overview of No-Fault in New York and Michigan--First Party Benefits”
- *Journal of the Ontario Insurance Adjusters Association*, “A Brief Overview of Insurance Defense Litigation in New York State”
- *Legally Qualified*, “Automotive and Trucking Accidents in the US With Foreign Defendants: What Insurers Need to Know”

Selected Alerts & Blog Posts

- COVID-19: NYS Statutes of Limitation Extended, Court Activity Halted
- Prejudgment Interest Denied Where Stipulation on Liability is Silent on Interest
- NY Appellate Court Permits Claims Against Insurer for Breach of Contract and Breach Of Implied Covenant of Good Faith and Fair Dealing