

Outdoor & Wildlife

Barclay Damon's outdoor and wildlife team has over 50 years of collective experience handling outdoor and wildlife matters. Our bench includes attorneys with undergraduate degrees in environmental science and natural-resource management who have a comprehensive understanding of sustainable use, conservation, and protecting the environment. The team includes experienced wildlife law and intellectual property attorneys with lifelong passions for the outdoors, giving them a stakeholder perspective and in-depth knowledge of issues impacting the outdoor, wildlife, sustainable use, and conservation industries.

Outdoor

Our outdoor and wildlife attorneys regularly represent owners, manufacturers, private-equity investors, and inventors in matters connected to archery, fishing, hunting, optics, firearms, taxidermy, personal watercraft, and other outdoor-sporting innovations and equipment. We additionally assist wildlife artists and jewelry designers in various legal matters, including mergers and acquisitions, contracts, financing, and protecting intellectual property involving patents, trademarks, copyrights, and trade secrets.

Our experience includes:

- Successfully defended a patent-infringement action against archery manufacturers and retailers.
- Giving demonstrations and tutorials of archery accessories and compound bows to judges and courts during claims construction and Markman hearings.
- Successfully prosecuted a trade-secret case for a fly-fishing-line manufacturer.
- Successfully prosecuted copyright-infringement action for taxidermy sculptors and suppliers on cutting-edge “useful article” matters.
- Successfully prosecuted patent-infringement matters involving archery equipment involving bows and cam designs.
- Assisting clients with brand and trademark portfolio management.
- Successfully moved for and obtained a preliminary and then permanent injunction against a former designer and inventor .
- Counseling on the prosecution and licensing of various outdoor, archery, and hunting inventions.
- Representing investors and private-equity groups in multi-million acquisitions, including assessing IP portfolios and IP due diligence.

Wildlife

Our attorneys represent a diverse client base in connection with international, federal, and state wildlife laws and regulations, ranging from energy companies and project developers to wildlife and natural-history museums, zoos, and education centers to wildlife importers, custom brokers, individuals, and wildlife-conservation organizations.

We routinely handle matters involving the Convention for the International Trade in Endangered Species (CITES), the Endangered Species Act (ESA), the Lacey Act, the Migratory Bird Treaty Act, the Marine Mammal Protection Act (MMPA), and their state counterparts. We regularly interact with members of the US Fish & Wildlife Service, US Customs and Border Protection, the US Department of Agriculture, the US Department of Justice, the NYS Department of Environmental Conservation (NYSDEC), and other federal and state agencies. Our attorneys handle wildlife and natural-history museum accreditation, the acquisition of specimens, and related wildlife-permitting issues. We also advise clients on wildlife conservation and mitigation projects, easements, and securing funding.

Our outdoor and wildlife attorneys represent project developers, investors, and operators of energy infrastructure in rare, threatened, and endangered (RTE) species issues related to renewable-energy

projects, natural-gas pipelines, and electric-transmission lines involving species such as Northern long-eared bats (NLEB), Indiana bats, bald eagles, and Atlantic sturgeon.

We regularly represent and counsel individuals, corporations, and not-for-profit conservation organizations on compliance and enforcement issues related to wildlife laws and regulations, including taking, permitting, transport, importation, and export issues.

Our experience includes:

- Advised the developer of a 1,000MW, 330-mile underground/submarine electric-transmission line on RTE-species issues involving the Hudson River as part of the successful permitting of the project.
- Represents project developers, tax-equity investors, and operators of large wind and solar projects on potential RTE issues and potential impacts involving NLEB, bald eagles, and other species related to project siting, acquisition due diligence, repowering projects, and investments.
- Advised on RTE issues involving the NLEB related to the permitting and siting of a natural-gas pipeline in support of the conversion of a former coal-fired generation facility to a 106MW gas-fired power-generation facility.
- Litigated and appealed the polar bear listing under the ESA and MMPA both at the district court and in the Court of Appeals for the Ninth Circuit.
- Representing individuals, zoos, museums, and custom brokers in matters involving the Lacey Act, Migratory Bird Treaty Act, ESA, CITES, and various state counterpart fish and game laws.
- Advised on the organization and accreditation of wildlife museums and the acquisition and deaccession of wildlife and natural-history specimens.
- Working with the US Fish and Wildlife Service and other agencies, successfully cleared thousands of wildlife specimens, including extinct and endangered species such as polar bears and bald eagles, with the necessary approvals and permitting.
- Advised on compliance and permitting issues for the donation of endangered and CITES-listed species to a university-based wildlife-research institution.
- Advises on individual, corporate, and conservation-organization compliance related to domestic and international hunting, archery, and wildlife conservation.
- Advised on compliance with federal and state ivory laws and regulations.
- Provided counseling related to state legislative bills on so-called “Big Five” laws, including on the constitutionality of those prohibitions in light of federal preemption issues.

Involvement

Our team carries its industry passion outside the firm through memberships and high-level positions in leading national and international wildlife-conservation organizations and trade associations. Mike Orpallo, co-team leader, has also been featured on episodes of *Live the Wild Life*.

Representative Experience

- Represented a fly fishing and braided line products manufacturer against a former executive who violated a restrictive covenant and disclosed trade secrets. Obtained a temporary restraining order and preliminary injunction enjoining the former executive from competing or soliciting clients and from disclosing trade secrets.