



Gary Svirsky

Partner

New York
D: +1-212-326-4305
gsvirsky@omm.com

Gary is a partner in O'Melveny's New York office. He is an accomplished litigator who has tried both jury and bench trials. He represents clients in all types of complex commercial cases with a special focus on disputes involving insurance coverage, distressed debt investments, and various sophisticated securities. He also has extensive experience at the intersection of bankruptcy and insurance law, and has been involved in most major mass-tort bankruptcies involving insurance over the last decade and a half.

He serves on the NYC Bar Insurance Law Committee and has published many articles on insurance and bankruptcy issues. Recently, his work has appeared in a law review, Crain's New York Business, and the New York Law Journal. And he speaks regularly at national conferences on insurance as well as bankruptcy law.

Gary has consistently been recognized as a New York Metro *Super Lawyer* every year since 2016. *Legal 500* lists Gary as a go-to member of O'Melveny's nationally top-ranked insurance practice. And *Chambers & Partners* has recognized Gary as a leading practitioner in the insurance category, observing that he is "highly regarded in the insolvent carrier space and lauded for his courtroom abilities. Clients praise his 'powerful intellect and ability to analyze complex circumstances and then explain it to non-lawyers.'" Clients also comment on his "notable expertise in sophisticated insurance litigation, particularly those involving securities and bankruptcy issues," referring to him as "a very impressive lawyer who is incredibly smart."

Admissions

Bar Admissions

New York

Court Admissions

US District Court, Eastern and Southern Districts of New York

US Court of Appeals, Second, Fifth, Sixth, and Ninth Circuits

US Supreme Court

Education

Columbia University, LL.M. (Stone Scholar; Bretzfelder Constitutional Law Fellow)

Osgoode Hall Law School, LL.B.

University of Toronto, M.A.

University of Western Ontario, B.A. (S.F. Glass Gold Medal)

Experience

- Represent industry group in challenge to New York State regulation imposing fiduciary duties on life insurance sales.
- Successfully represent hedge fund that invests primarily in life insurance policies in a complaint alleging wrongdoing in connection with the sale of a life-settlement portfolio.
- Lead trial counsel in a bankruptcy dispute involving a distressed debt investment in an energy company.
- Lead counsel in a first-of-its-kind dispute under New York law involving reformation of a contract to buy and sell warrants.
- Lead counsel in four-week trial for group of insurers against two large industrial manufacturers where jury found that defense payments fall within indemnity limits.
- Led successful litigation with unsecured creditors' committee and bondholders about standing to control debtors' main asset.
- Co-lead counsel in contested bankruptcy that resulted in precedent-setting Ninth Circuit decision on insurer bankruptcy standing and equitable mootness.
- Co-lead counsel in sex abuse case involving one of Connecticut's largest charitable hospitals.
- Co-lead counsel for major insurer in large coverage dispute in New York that has resulted in several precedents, including on allocation.

Reported significant decisions that Gary has litigated include the following:

- *Warberg Opportunistic Trading Fund, L.P. v. GeoResources, Inc.*, 151 A.D.3d 465 (1st Dep't 2017)
- *In re Thorpe Insulation Co.*, 677 F.3d 869 (9th Cir. 2012)
- *Mt. McKinley Ins. Co. v. Corning, Inc.*, Index No. 602454/02 (N.Y. Sup. Ct., N.Y. Cty. Sept. 7, 2012)
- *Pacific Employers Ins. Co. v. Travelers Cas. & Sur. Co.*, 888 F.Supp.2d 271 (D. Conn. 2012)
- *In re Biovail Corp. Securities Litigation*, 247 F.R.D. 69 (S.D.N.Y. 2007)
- *In re Congoleum Corporation*, 426 F.3d 675 (3d Cir. 2005)
- *In re Baron & Budd v. Unsecured Creditors Committee*, 321 B.R. 147 (D. N.J. 2005)
- *In re Congoleum Corporation*, No. 03-51524, 2005 WL 712540 (Bankr. D. N.J. March 24, 2005)

Professional Activities

Adjunct Professor

- Fordham University Law School, Legal Research and Writing

Clerkships

- Honorable John I. Laskin, Ontario Court of Appeal
- Honorable Rosalie Silberman Abella, Ontario Court of Appeal (now Supreme Court of Canada)

Committees

- Committee Member, NYC Bar Insurance Law Committee

Select Publications

- “Congress Must Set Up an Insurance Fund to Deal with the Pandemic,” *Crain's New York Business* (April 7, 2020 co-authored with Tancred Schiavoni)
- “Current Trends in Application of the Absolute Pollution Exclusion in CGL Policies: Cross-Border Comparison Between New York and Canadian Law,” University of Oregon School of Law *Journal of Environmental Law & Litigation*, Spring 2019.
- “A Classic Case of Regulatory Overreach,” *Crain's New York Business* (October 16, 2018 co-authored with Janine Panchok-Berry and Tancred Schiavoni)
- “Supreme Court Annuls Agency Overreach In Title Insurance Regulations,” *New York Law Journal* (August 2018 co-authored with Tancred Schiavoni)
- “A Field Guide to Channeling Injunctions and Litigation Trusts,” *New York Law Journal*, July 13, 2018.
- “Bankruptcy Court Overrides CDO Indenture Provision Requiring Noteholder Consent to Liquidation After Accelerating Default,” *Pratt's Journal of Bankruptcy Law*, January 2012 and *Client Alert*, October 31, 2011.
- “Victory for Insurers in Skinner Engine May Change Landscape for Asbestos Bankruptcies,”(co-author), *Bloomberg Law Reports: Bankruptcy Law*, June 29, 2009.
- “Bankruptcy Court Dismisses Congoleum Bankruptcy Proceeding,” *Bloomberg Bankruptcy Reporter*, March 30, 2009.
- “N.Y. Courts Won't Allow Look at Policy Drafts in an Insurance Fight,,” *Andrews Asbestos Litigation Reporter*, March 6, 2009.

Podcasts

- “Postponed Events, Cancelled Trips, Disrupted Business – Insurance and Coronavirus Collide,” New York City Bar Association, April 14, 2020

Honors & Awards

- Recommended by *The Legal 500 US* for Insurance: Advice to Insurers (2022)
- Leading Practitioner in Insurance, *Chambers & Partners*
- Recommended Lawyer in Finance and Insurance, *The Legal 500 US* (2019-2021)
- NY Metro *Super Lawyers* (2016, 2017, 2018)

Languages

- Russian