

Mark J. Bunim



Mark J. Bunim is a certified mediator (by the CPR Center for Dispute Resolution and the New York State Supreme Court Commercial Division) and Arbitrator and an attorney licensed to practice in the Courts of New York and the United States Courts since 1976. Mr. Bunim has participated in over 400 mediations and 100 arbitrations concerning all insurance coverage issues, contract and corporate disputes, family business disputes and partnership issues. He has mediated attorney and accountant professional liability disputes, partnership disputes, real estate related disputes, World Trade

Center property-loss and business interruption recovery disputes; and family business and estate conflicts. As a litigator for over 25 years he had represented, at different times, insurance companies and insureds on claims involving coverage issues.

Mr. Bunim is a Fellow of the College of Commercial Arbitrators, member of the Panel of Mediators of the Commercial Division of the Supreme Court of the State of New York; the Panel of Commercial Arbitrators and Mediators of FedArb; the panel of the National Academy of Distinguished Neutrals. He is active in the Dispute Resolution Section of the New York State Bar Association and is Co-Chair of the Insurance Dispute Committee of the State Bar.

From 1996 to 2005 he had been a partner in Robinson Silverman Pearce Aronsohn & Berman, which became Bryan Cave, LLP (in 2002) focusing on commercial litigation, insurance related and coverage cases, and alternative dispute resolution. He was co-leader of the insurance recovery and risk management litigation group. Before that, from 1983-1996, he was managing partner at Ohrenstein and Brown, a New York City law firm specializing in insurance, complex tort and commercial related disputes.

Mr. Bunim graduated from New York University, summa cum laude, in 1971 and Rutgers University School of Law (1975). He has spoken at meetings, conventions, and seminars around the country on ADR and insurance issues, i.e. The New York State Bar Assn. Dispute Resolution Section Annual Meeting, January 2009; the American Bar Assn. Insurance Coverage Section meeting in Tucson, AZ. 2007; and has appeared on radio, television and in the press, talking about risk management and insurance coverage and recovery.

Areas of Expertise:

- Appellate Practice
- Attorney Malpractice
- Business/Commercial/Corporate
- Directors and Officers
- Employment
- ERISA
- Errors and Omissions

- Family Business Disputes
- Insurance
- Insurance Coverage
- Legal Ethics
- Life/Health/Disability
- Negligence
- Partnership Law
- Personal Injury
- Premises Liability
- Products Liability
- Professional Liabilities
- Property Damage
- Torts

Representative Arbitrations and Mediations

Insurance Disputes:

- Arbitrator in many Rep. and Warranty Insurance (RWI) disputes arising out of M&A transactions.
- Arbitrator in a large Subcontractors Default Insurance policy coverage dispute involving the construction of a New York City office tower.
- Arbitrated workers compensation insurance program premium reimbursement dispute.
- Arbitrated group insurance program cancellation involving large manufacturing company and insurer and State Insurance Department.
- Arbitrated dispute between insured and multiple insurers over the applicability of triggering conditions and exclusions in a manuscript business interruption/ supply chain policy.
- Arbitrated dispute between co-insurers over responsibility for payment of loss.
- Arbitrated dispute between insurer and broker concerning alleged misrepresentations in the scope of risk.
- Arbitrated dispute between Insurer and MGA regarding termination of relationship issues.
- Arbitrated dispute between primary and excess insurer over excess carrier's coverage defenses.
- Arbitrated legal malpractice and accountants' malpractice insurance disputes.
- Arbitrated dispute between law firm and former partner regarding insurance coverage.

- Arbitrated a physicians group reimbursement claim against an insurer.
- Arbitrated dispute between health insurer and agent over alleged marketing misrepresentation scheme.
- Arbitrated maritime dispute between insurer and agent regarding alleged misrepresentation of risk.
- Arbitrated dispute between nursing homes and insurer regarding premium reimbursements.
- Arbitrated dispute between national senior living provider and property management company regarding “tail” insurance coverage.
- Arbitrated life insurer vs. former agency dispute.
- Arbitrated D & O coverage dispute between insured and multiple insurers.
- Arbitrated dispute between insured and insurer involving credit line insurance.
- Mediated directors and officers coverage dispute involving a Federal Grand Jury Investigation against a prominent company
- Mediated employment coverage disputes between insurer and securities brokerage company.
- Mediated insurance coverage under an Admiralty policy for lost goods in China.
- Mediated title insurance coverage dispute involving New York City commercial property.
- Mediated legal malpractice claims involving land purchase agreement.
- Mediated an insurance coverage dispute arising out of a property damage loss in lower Manhattan, to a significant commercial property, resulting from the collapse of the World Trade Center.
- Mediated a multi-million-dollar dispute between a primary insurer and excess layers and reinsurers of excess layers, both domestic and foreign, as to percentage allocation of loss for foreign-based multiple explosions.
- Mediated a denial of disability benefits to the senior partner of a large national law firm.
- Mediated a long-term disability claim by a Wall Street trader who claimed permanent disabling injuries.
- Mediated numerous life insurance claim denials where the insurer was claiming misrepresentation in the application process.
- Mediated a dispute between many layers of competing insurers as to which policies were responsible for a large personal injury loss.
- Mediated resolution of an insurance coverage dispute for a restaurant/bar’s liability for personal injuries, including permanent paraplegic injury, involving use of a structured settlement.
- Mediated property damage claims involving condos and private residences.

- Mediated a construction accident group of cases involving injured workers and various contractor/ sub-contractor allocation issues.
- Mediated an insurance coverage dispute between the officers of an auto warranty business and their D&O insurer involving coverage for a shareholder suit.
- Mediated professional liability coverage matters.
- Mediated life insurance benefit allocation coverage cases.
- Mediated environmental policy coverage dispute involving land and water pollution.
- Mediated commercial property fire damage loss disputes.
- Mediated New Jersey School District contractual dispute with former official.
- Mediated coverage dispute on an advertising injury claim.
- Mediated Directors and Officers coverage disputes involving Hedge Funds and Private Equity entities.
- Mediated dispute between insurer and TPA over administration of a nationwide program.
- Mediated numerous legal malpractice matters

Business Disputes:

- Mediation of a claim against former directors and officers of an internet company by creditors of that company, for negligent management practices.
- Mediation of a Class Action shareholder suit involving a stock buy-back undervaluation claim.
- Mediation of a multi-million dollar battle between executors of an estate where the deceased left stock to be distributed to charities and the co-executors bitterly disagreed as to which charities would be recipients.
- Mediation of an accountant liability claim arising out of undetected defalcations.
- Mediated multiple business dissolution's among family member and partnership disputes.
- Mediated estate and trust matters involving beneficiary claims.
- Mediated numerous legal malpractice matters.
- Mediation of an accountant liability claim involving allegations of negligent preparation of financial statements and projections.
- Mediation of a claim against a financial adviser resulting from the recommendation of faulty investments.
- Arbitrated construction dispute between owner and contractor involving delays, defects and claims of contractual non-compliance.
- Arbitrated fee payment disputes between a litigation expert team and retaining companies.

- Arbitrated dispute between two competitors over domestic and international retail products' rights and customer exclusivity.
- Arbitrated a dispute between brothers over dissolution of a family group of businesses.

Commercial Disputes:

- Arbitrated construction dispute between owner and contractor involving delays, defects and claims of contractual non-compliance.
- Arbitrated international private club dispute with outside financial service company.
- Arbitrated fee payment disputes between a litigation expert team and retaining companies.
- Arbitrated breach of fiduciary duty claim against financial advisor.
- Arbitrated dispute between two competitors over domestic and international retail Products' rights and customer exclusivity.
- Arbitrated a dispute between brothers over dissolution of a family group of businesses.
- Arbitrated family real estate business control dispute.
- Arbitrated consumer civil right complaint against a finance company.
- Arbitrated employee claims of harassment against former employer.
- Arbitrated law firm fee disputes.
- Arbitrated legal malpractice claims.
- Arbitrated franchise termination disputes.
- Arbitrated Federal Communications Law matters.
- Arbitrated health industry employment dispute.
- Arbitrated cyber-data breach claim.
- Arbitrated real estate partnership dispute.
- Arbitrated claims regarding dissolution of a multi-million dollar family-owned business.
- Arbitrated Preliminary Injunction hearing regarding the break-up of a closely held corporation.
- Arbitrated dispute between a nursing home conglomerate and its outside management company.
- Arbitrated \$7M loan dispute between a financial institution and a real estate borrower.
- Mediated environmental malpractice claim against engineering company.
- Mediated partnership breakup in the technology industry.
- Mediated land contamination case against co-op building.
- Mediated claim against former directors and officers of an internet company by creditors of that company, for negligent management practices.

- Mediated dispute between one of the nation's largest internet service providers and a large business customer concerning alleged breach of contractual terms for the speed of internet service and private cloud storage capacity issues.
- Mediated claim by secured trade lender against former customer for misrepresentation of assets.
- Mediated claim by purchases of a business against sellers/employees for misrepresentation and over-evaluation.
- Mediated claim by purchasers of an office complex against sellers, regarding the viability of tenant leases.
- Mediated a claim by a web-based program "reseller-licensee" against licensor regarding compliance with contractual terms involving quotas.
- Mediated a Class Action shareholder suit involving a stock buy-back undervaluation claim.
- Mediated a multi-million-dollar dispute between executors of an estate where the deceased left stock to be distributed to charities and the co-executors disagreed as to which charities would be recipients.
- Mediated an accountant liability claim arising out of undetected defalcations.
- Mediated Seller/Buyer commercial real estate disputes.
- Mediated multiple business dissolution cases among family members and related partnership disputes.
- Mediated law firm, accounting firm and other professional entity dissolutions.
- Mediated estate and trust matters involving beneficiary claims.
- Mediated an accountant liability claim involving allegations of negligent preparation of financial statements and projections.
- Mediated a claim against a financial advisor resulting from the recommendation of faulty investments.
- Mediated an equipment suitability dispute between a manufacturer, distributor and end-user.
- Mediated sibling dispute concerning care of parents and sibling financial dealings.
- Mediated commercial construction professional engineering malpractice claim.
- Mediated a software company/licensee dispute

Construction Disputes:

- Mediated dispute between owner, GC and sub-contractors arising out of a claim of faulty construction of a large luxury condominium.
- Mediated dispute between co-op shareholders and sponsor concerning claim of substitution of lesser quality items and materials from the offering plan.
- Mediated claim against building owner by tenants arising out of expansion of multi-dwelling premises and intrusions, noise and unacceptable additions thereto.
- Mediated claim against architect for failure to follow plans and unapproved modifications.
- Mediated many construction accident cases involving injured and seriously disabled workers dealing with scaffolding, fires, explosions and serious falls from heights.

Employment Disputes:

- Mediated numerous sexual harassment suits involving workplace incidents.
- Mediated a dispute against a sports arena, resulting from sexual harassment and battery by security guards of patrons, at an event.
- Mediated claim of wrongful termination by employee of legal search firm.
- Mediated claim of employee against government agency for wrongful demotion.
- Mediated sexual harassment claim by co-op owner against building management

Professional Licenses and Admissions:

- New York State (1976)
- U.S. District Court, Southern and Eastern Districts of New York (1976)
- U.S. Circuit Court of Appeals (1983)
- United States Supreme Court (1987)

Professional Background:

- Founder, Managing Director, Case Closure LLC (2005-present)
- Partner, Bryan Cave LLP (2002-2005)
- Partner, Robinson, Silverman, Pearce, Aronsohn & Berman (1996-2002)
- Managing Partner, Ohrenstein & Brown (1980-1996)
- Trial Attorney, O'Melveny & Myers (1977-1979)
- Sp. Asst. AG, Office of NYS Special Prosecutor (1975-1977)

Professional Affiliations:

- Panel Mediator, Supreme Court, State of New York and Nassau Counties, Commercial Division, New York
- Member, NYS Bar Association, Mediation and Arbitration Committees Member; Co-Chair of the Insurance Dispute Committee

Education

- New York University, *summa cum laude* (B.A.1971)
- Rutgers University School of Law (J.D.1975)

Honors and Awards:

- Top Rated Lawyer in Insurance Law, American Lawyer/New York Law Journal (2013)
- Member, National Academy of Distinguished Neutrals
- Charter Member, New York Academy of Mediators and Arbitrators

Publications:

- "Insurance Mediation: Is It Time to Return to the Good Old Days?", N. Y. Law Journal, April 19, 2022.
- "The New York Court of Appeals Overturns the Appellate Division's Ruling Regarding *Functus Officio*"; Practical Law, May 2020.
- " Practice and Procedure in US Insurance Arbitration"; Practical Law, Thomson/Reuters, January 2018.
- " When States Prohibit Dispute Resolution"; Dispute Resolution Journal of the American Arbitration Assn., Vol. 71, No. 1, 2016.
- "Solving the Insurance Allocation Dilemma"; NY Law Journal, September 15, 2015.
- "The Second Circuit Curtails the Manifest Disregard Argument"; NY Law Journal, February 6, 2015.
- "Insurance Broker Exposure; A New Day in New York"; NY Law Journal, Outside Counsel column, April 24, 2014.
- "The Ten Commandments for a Successful Mediation"; Litigation Management Magazine, Fall 2012
- "A Twist in Standard Mediation: The Insurer is at the Table"; NY Law Journal July 29, 2010, Pg. 1.
- "Mediation of Estate and Commercial Family Disputes"; NY Law Journal, January 14, 2010, Pg. 1.

Speaking Engagements

Mark Bunim has spoken at meetings, conventions, and seminars around the country on ADR and insurance issues, i.e. The ExecuSummit Bad Faith Litigation Summit, 2015; The Claims and



Litigation Management Annual Convention in New Orleans, La., March 2011; The New York State Bar Assn. Elder Law meeting, White Plains, N.Y., November 2010; The New York State Bar Association Dispute Resolution Section Annual Meeting, January 2009 and the Fall Meeting 2021; the American Bar Association. Insurance Coverage Section meeting in Tucson, AZ. 2007; and has appeared on radio, television and in the press, talking about risk management and insurance coverage and recovery and Structured Settlements. Appeared on Ringler Radio on multiple occasions.