

MEDIA & FIRST AMENDMENT

Hodgson Russ's media and first amendment lawyers are committed to ensuring our clients' constitutional rights are protected. Our lawyers represent traditional media, online publishers, corporations, and individuals on a wide variety of matters.



MEDIA

Traditional media, publishers (online and print), social media outlets, businesses and individuals turn to Hodgson Russ for pre-publication/pre-broadcast reviews, counseling clients regarding the parameters of acceptable reporting and broadcasting and mitigating their potential liability exposure.

We counsel those same clients when they receive retraction or correction requests, or subpoenas relating to their reporting and invoking issues surrounding protection of sources, shield laws, and anonymous speech. We also represent media clients across on issues involving:

- Contractual disputes
- Company sales
- Non-competition agreements
- Digital Millennium Copyright Act
- Communications Decency Act

Attorney Advertising

- Talent and staff contracts
- Union labor issues
- Website domain issues

PUBLIC RECORDS

Drawing from its experience representing municipal entities, school districts, developers, and private citizens, Hodgson Russ is well versed in open meetings law matters, privacy rights including

- HIPAA
- The New York Civil Rights Law
- Freedom of Information Law (FOIL)
- Freedom of Information Act (FOIA)

We advise on protection of proprietary information submitted to public agencies, and the proper use of personnel information, as well as the proper use of executive sessions and application of attorney-client privilege to public records.

We have assisted a high-ranking government official against First Amendment Retaliation and NYS Whistleblower Claims relating to a former employee's termination. Obtained a dismissal of both claims by the U.S. Court of Appeals for the Second Circuit.

Prior results do not guarantee a similar outcome.

“The first amendment’s core purpose is to foster a healthy, vibrant political system full of robust discussion and debate.” - Justice Elena Kagan



We represented an equestrian facility and its owner in prosecuting a defamation claim related to false statements made about our client’s treatment of their horses. The defendant ceased and desisted their conduct and issued a public apology to our client.



FIRST AMENDMENT ISSUES

First Amendment presents a broad spectrum of issues involving freedom of speech, freedom of religion, and the right to petition the government, as set forth in the First Amendment to the U.S. Constitution, similar provisions found in state constitutions, and various statutes. Our First Amendment litigators are highly experienced in disputes involving

- First Amendment Civil Rights claims
- Rights of privacy and publicity
- Rights of reporters under Shield Laws
- Authors’ rights under statute and contract
- Defense against misappropriation and right of publicity claims
- Related actions include litigating copyright and trademark cases.
- Free speech challenges involve government action that intrudes upon free speech rights:
 - Restraints on publication
 - Defamation
 - Pre-publication and pre-broadcast review
 - Invasion of privacy
- Torts, including:
 - Infliction of emotional distress
 - Fraud and misrepresentation
 - Tortious interference

These issues arise with respect to individuals and businesses, including the press. Our work includes advising school districts on the unique situations posed by student and employee free speech rights at school, in school newspapers, and on social media.

First Amendment litigation involving freedom of religion encompasses issues ranging from the Religious Land Use and Institutionalized Persons Act, and separation of church and state issues arising from religious symbols on public property. We regularly advise clients on the intersection of religious rights with workplace mandates, and other aspects of

the free exercise of religion. These include the right to religious speech in various public forums, from traditional public forums (e.g., sidewalks) to public institutions (e.g., educational facilities).

An emerging aspect of First Amendment practice are the digital technologies transforming the information landscape. First Amendment attorneys have experience in legal issues involving data protection and cybercrimes and responding to anonymous online posts.

We also have experience counseling on related obligations under:

- The Communications Decency Act
- The Digital Millennium Copyright Act
- Website user agreements (terms of use and privacy policies)
- Compliance with international privacy protection laws
- Endorsement issues
- Content licensing
- Cybersquatting

ADVERTISING LAW

An essential element in operating media today on any platform is understanding the complex regulatory structure governing advertisements, not only those set by governmental bodies, but also industry standards and platform specific (Facebook, Twitter, Google) requirements. Hodgson Russ can assist clients and their agencies on a diverse range of compliance issues, from state sweepstakes laws to the Dot Com Disclosure guidelines given by the Federal Trade Commission (FTC). We pursue false claims by competitors, respond to FTC and State Attorney General investigations, defend against cease and desist letters, and help limit delays and liability by reviewing advertising copy and supporting evidence prior to new product launches or updating on-going campaigns.



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CORPORATE COUNSELING AND PROTECTING YOUR INTELLECTUAL PROPERTY

Our corporate, employment, and intellectual property lawyers work hand-in-hand to protect and enforce our client's intellectual property rights. We understand that our clients commit significant resources to developing their intellectual property and marketing their businesses. Whether it is protecting those rights during a business transaction, ensuring that employees understand their obligations, engaging in litigation to protect your investment, or helping clients respond to public relations issues, Hodgson Russ's Media and First Amendment Practice offers the legal solutions your business needs. The firm regularly represents inventors, authors, artists, and entrepreneurs to protect their work, and our attorneys have significant experience negotiating:

- Licensing agreements
- Royalty agreements
- Preparing and litigating trademarks

- Copyright
- Patent disputes
- Protecting trade secrets
- Litigating unfair competition claims

REPUTATION PROTECTION AND RESCUE

A client's reputation is often its most valuable asset. Hodgson Russ routinely litigates defamation matters, whether they are prosecuting claims on behalf of individuals and corporations, or defending clients against such claims. Having been on both sides of these matters, Hodgson Russ understands the strengths and weaknesses of each case.

In addition, the firm regularly counsels clients regarding how to respond to a crisis. That advice includes responding to the press, partnering with public relations firms to manage the ongoing crisis, interfacing with insurers and other professionals necessary to address the event, and helping the client rebuild their reputation after the initial crisis has passed.



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Practice restricted to U.S. law



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