



MICHAEL D. ZAHLER

Partner

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Michael is a seasoned litigator who focuses his practice on trusts and estates litigation and employment litigation.

Michael regularly represents fiduciaries, beneficiaries, and other parties in will contests, trust matters, accounting proceedings, discovery proceedings, estate tax proceedings, and other fiduciary litigation in the New York State Surrogate's Court and New York Appellate Courts. Michael often resolves complicated and contentious disputes through negotiation or mediation. But, when an amicable resolution cannot be reached, Michael has the experience and advocacy skills to try the case.

Michael also represents employers and management in Court, in arbitrations, and before administrative agencies on a broad array of employment-related litigation, including cases with allegations involving discrimination, harassment, or retaliation, leave and accommodation laws, restrictive covenants, and federal and state wage and hour laws. Michael also assists employers in defending class and collective actions.

Michael helps employers mitigate risk by providing counseling on workplace policies, handbooks, discrimination, harassment, and retaliation, safety and health compliance, drug and alcohol testing, wage and hour laws, worker classification, and discipline and discharge. Michael is a frequent lecturer on a wide range of labor and employment topics for various groups, including presenting on sexual harassment prevention at the annual conference of the Associated General Contractors of New York, wage and hour laws at the annual conference of the New York State Society for Human Resource Management, and New York Forward Reopening Guidance to the New York State Bar Association, the Capital Region Chamber of Commerce, and the New York State Association of Criminal Defense Lawyers. Michael has also written on a wide range of topics including worker classification, COVID-19 related whistleblower claims, and business owner liability for wage claims.

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Practices & Industries

Business Litigation
Class Action Litigation
Employment Litigation
Labor & Employment
Non-Compete, Non-Solicit & Trade Secrets
Securities/Directors & Officers Litigation
Trusts & Estates
Trusts & Estates Controversies
Wage & Hour

Admissions

New Jersey

MICHAEL D. ZAHLER

Honors

- Listed, *Upstate New York Super Lawyers* Rising Stars (Employment Litigation: Defense) 2019 - 2023
- Listed, *New Jersey Super Lawyers* Rising Stars 2016 - 2018
- Morris Gann Prize for Greatest Achievement in Evidence

Experience

Michael D. Zahler and Christian J. Soller won summary judgment in favor of a construction client. In 2019, a school district retained the client to perform the electrical contracting work for an addition to an elementary school. Soon after work began, a dispute arose between the client and the general contractor concerning responsibility for excavation and trenching work and the placement of bedding material for electrical underground utilities. The client notified the school district that the work was outside the scope of its contract and that it would seek additional compensation if compelled to perform the work. Pursuant to the terms of the governing contracts, the school district deferred to the architect who agreed with the general contractor that the work was included in the client's contract. The school district in turn directed the client to perform the work without additional compensation. The school district refused to engage in settlement discussions until the Court decided its motion for summary judgment. On April 11, 2022, the Supreme Court denied the school district's motion for summary judgment and granted the client's cross-motion for summary judgment, holding that, contrary to the architect's determination, the disputed work is outside of the client's responsibility under its contract and that the client is entitled to recover the full amount sought for performing the additional work.

A distributee to an estate believed that the administratrix was personally collecting rents for use of Estate property. Hodgson Russ initiated a litigation in Sullivan County Surrogate's Court wherein it recovered on behalf of the Estate more than \$1 million of rent that the administratrix had collected and deposited into her personal bank accounts.

The estate plan of the family patriarch treated his two children equally. But, the month before he died, the patriarch made a substantial, and unusual, gift to one of his adult children from his hospital bed. On the day of trial, the adult child agreed to return the money to the patriarch's estate and widow.

New York

U.S. District Court, Eastern District of New York

U.S. District Court, Northern District of New York

U.S. District Court, Southern District of New York

U.S. District Court, Western District of New York

U.S. District Court, District of New Jersey

Education

Syracuse University, B.A., magna cum laude

Rutgers University, J.D., cum laude and Order of the Coif

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Michael D. Zahler represented three clients in an arbitration proceeding before retired Commercial Division Judge Marcy Friedman. Following a hearing and post-hearing briefing, Arbitrator Friedman awarded all relief sought by our clients' demand for arbitration, including a monetary award totaling more than \$25 million.

In the News

Area law practice helps revitalize buildings and grounds at Yaddo
The Saratogian, October 13, 2020

Law firm volunteers to spiff up Yaddo
Times-Union, October 9, 2020

Press Releases

Hodgson Russ LLP Announces New Partners
January 3, 2024

55 Hodgson Russ LLP Attorneys Named to 2023 *Upstate New York Super Lawyers* List
August 23, 2023

Fifty-Nine Hodgson Russ Attorneys Ranked in 2022 Edition of *Upstate New York Super Lawyers*
Hodgson Russ Press Release, August 23, 2022

Fifty-Four Hodgson Russ Attorneys Ranked in 2021 Edition of *Upstate New York Super Lawyers*
Hodgson Russ Press Release, August 20, 2021

Sixty-Two Hodgson Russ Attorneys Named to 2020 *Upstate New York Super Lawyers*
Hodgson Russ Press Release, September 8, 2020

New Attorneys Join Hodgson Russ
Hodgson Russ Press Release, December 20, 2019

Publications

FTC Adopts Rule Banning Most Non-Competes and the Legal Slugfest Begins
Hodgson Russ Non-Compete, Non-Solicit, and Trade Secrets Alert, April 24, 2024

New York State's "Freelance Isn't Free" Act – What Employers Need to Know
Hodgson Russ Labor & Employment Alert, April 18, 2024

Employees Enjoy a Private Right of Action Under Changes to New York City Earned Safe and Sick Time Act
Hodgson Russ Labor & Employment Alert, March 7, 2024

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NY General Obligations Law Amended to Limit Further Pro-Employer Provisions in Settlement Agreements

Hodgson Russ Labor & Employment Alert, January 23, 2024

New Year - New Statute of Limitations for Complaints filed with the New York State Division of Human Rights

Hodgson Russ Labor & Employment Alert, December 29, 2023

New York State Increases Minimum Wage and Modifies Other Salary Requirements

Hodgson Russ Labor & Employment Alert, December 22, 2023 - CORRECTED*

Wage Theft In New York Is Now Criminal Larceny

Hodgson Russ Labor & Employment Alert, October 3, 2023

New York State Bans Employee Captive Audience Meetings

Hodgson Russ LLP Labor & Employment Alert, September 28, 2023

OSHA Launches National Emphasis Program Targeting Warehousing and Distribution Operations

Hodgson Russ Occupational Safety & Health Act Alert, August 8, 2023

New York Amends and Expands Scope of Statewide “Pay Transparency” Law

Hodgson Russ Labor & Employment Alert , July 6, 2023

Presentations & Events

28th Annual Labor and Employment Conference

Buffalo Marriott Niagara 1340 Millersport Hwy, Amherst, NY 14221, November 8, 2023

27th Annual Labor & Employment Conference

Buffalo Marriott Niagara 1340 Millersport Hwy, Amherst, NY 14221, January 12, 2023

2023 Employment Law Update

Annual Conference of the State University of New York Auxiliary Services Association, January 5, 2023

Marijuana and the Workplace

Capital Region BOMA, Albany Capital Center, April 28, 2022

Employment Law Update

New York Dental Hygienist Association Empire Conference, October 23, 2021

End of 2020 Updates on Important Tax and Employment Law Issues During COVID-19

NYSADCL, December 21, 2020

Getting Back on Campus: Preparing Your Institution’s Reopening Plan and Limiting Your Exposure to Higher Education

Class Action Lawsuits

July 8, 2020

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Reopening Your Business: New York Forward and Preparing Your Business' Safety Plan
New York State Bar Subcommittee on Solo and Small Firm Practice, June 10, 2020

Reopening Your Business: New York Forward and Preparing Your Business' Safety Plan
New York State Association of Criminal Defense Lawyers, June 9, 2020

Reopening Your Business: New York Forward and Preparing Your Business' Safety Plan
Capital Region Chamber, May 29, 2020

Professional Affiliations

- New York State Bar Association, Trusts and Estates Section
- Albany County Bar Association
- Society for Human Resource Management

Community & Pro Bono

- Leadership Tech Valley - Class of 2020
- Albany Institute of History and Art, Trustee

