



## JOSHUA M. AGINS

Partner

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Josh is a versatile litigator who represents colleges and universities, hospital systems, energy companies, engineering firms, industrial conglomerates, and gas and electric utilities in state and federal courts and arbitration venues.

Josh regularly litigates commercial matters arising from breach of contract and business torts. His experience includes matters involving licensing agreements, joint development agreements, commercial leases, supplier/vendor agreements, take or pay arrangements, construction contracts, structured financial products, and UCC Article 2 and 2A claims. He also represents owners, engineers, and contractors in courts and American Arbitration Association proceedings in matters involving change order disputes, cost overruns, nonconforming work, and performance warranties.

In his higher education practice, Josh defends colleges and universities against all varieties of claims of discrimination, harassment, and retaliation in courts and before the NYS Division of Human Rights. He also advises on, and litigates, matters involving faculty tenure reviews, student conduct issues, and academic challenges by students. Josh frequently handles traditional Title IX and so-called “reverse Title IX” actions arising from reports of sexual misconduct, as well as related investigations by the U.S. DOE’s Office for Civil Rights.

Josh also defends clients in select tort matters. He has represented institutions of higher education in tort matters intersecting with Title IX, VAWA, and the Clery Act. He also represents utility companies following catastrophic natural gas and electrical events and has handled numerous incidents from on-scene investigation through trial.

Josh is a member of the Federation of Defense & Corporate Counsel (FDCC), a membership that is granted by invitation only following an extensive peer-review selection process. Josh serves as Co-Vice Chair of the Energy & Utilities Section, and is a member of the Business & Commercial Litigation Section.

1800 Bausch & Lomb Place  
Rochester, NY 14604

### Practices & Industries

Business Litigation

Education

### Admissions

New York

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

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

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

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

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

U.S. Court of Appeals, Second Circuit

### Education

Hamilton College, B.A., magna cum laude

University at Buffalo School of Law, J.D., summa cum laude

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## Honors

- Listed, *Best Lawyers in America* (Commercial Litigation, Construction Litigation), 2022 - 2024
- Listed, *Upstate New York Super Lawyers*, 2022 - 2023
- Listed, *Upstate New York Super Lawyers Rising Stars*, 2014 - 2021
- Up & Coming Attorney, *The Daily Record*, 2017
- John N. Bennett Award, University at Buffalo School of Law
- Former Executive Editor, *Buffalo Law Review*

## Experience

- Represented global water treatment systems supplier against claims of breach of contract and breach of performance warranty allegedly valued at two hundred million dollars.
- Represented utility in AAA arbitration involving claims and counterclaims for breach of contract related to electrical duct bank installation project.
- Obtained temporary restraining order enjoining termination of licensing agreement on behalf of international courseware publisher.
- Secured pre-answer dismissal of breach of contract claim related to losses allegedly incurred to unwind hedging swaps. *Andritz Hydro Can., Inc. v. Rochester Gas & Electric Corp.*, 2021 U.S. Dist. LEXIS 136364 (W.D.N.Y. July 22, 2021), *aff'd* 2023 U.S. App. 26309 (2d Cir. 2023).
- Obtained summary judgment for breach of contract on behalf of electric utility against windfarm developer for failed interconnection project.
- Obtained pre-answer dismissal of defamation action against attorney related to statements made during proceedings to investigate alleged board member improprieties. *Boyd v. Osborn*, 2022 U.S. Dist. LEXIS 82479 (W.D.N.Y. May 6, 2022).
- Secured pre-answer dismissal of all but one claim against university in multi-plaintiff Title IX case. *N.P. v. City of New York*, Civil Action No. 20-cv-3059 (E.D.N.Y. Sept. 8, 2022).
- Obtained dismissal of NYS Article 78 proceeding and subsequent plenary action by doctoral candidate alleging discrimination and retaliation. *Nanavati v. The New School*, Index No. 650163 (Sup. Ct. NY Cty., April 7, 2021) and Index No. 151444/2019 (Sup. Ct. NY Cty., Oct. 28, 2019).
- Obtained pre-answer dismissal of “reverse Title IX” and breach of contract claims against university in NYS Article 78 proceeding and in federal court. *B.B. v. The New School*, Index No. 159161/17 (Sup. Ct. NY Cty., Sept. 26, 2018) and *B. B. v. The New School*, Civil Action No. 17-cv-8347 (AT), 2018 U.S. Dist. LEXIS 80068 (S.D.N.Y., April 30, 2018).
- Obtained summary judgment on behalf of college, dismissing all significant claims brought by former student alleging disability discrimination, civil rights violations, false arrest, and numerous additional tort-based claims. *Bied v. Hudson Valley Community College*, Civil Action No. 15-cv-1011 (TLM/DEP), 2018 U.S. Dist. LEXIS 55143 (N.D.N.Y., Mar. 30, 2018).

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- Obtained dismissal of defamation action against medical center and fourteen individual members of its staff and administration asserted by a former medical staff member. *Colantonio v. Mercy Medical Center*, 135 AD3d 686 (2nd Dept.), lv. denied, 28 NY3d 903 (2016).
- Represented gas utility in on-scene investigation and litigation involving numerous actions for personal injury, property damage, and lost business revenue claims arising out of natural gas explosion damaging twenty residential properties and injuring five residents.

### **Publications**

- "New Guidance Impacting Cross-Examination in Title IX Hearings," *The Daily Record*, August 2021
- "Appellate Division Reinstates Suspension of Students for Off-Campus, Unmasked Social Gatherings" *Ward Greenberg Legal Update*, April 2021

U.S. Department of Education Announces Long-Awaited Final Title IX Regulations  
*Hodgson Russ Education Alert*, April 25, 2024

### **Professional Affiliations**

- National Association of College and University Attorneys
- Federation of Defense & Corporate Counsel

### **Community & Pro Bono**

- *Cabinet Member*, Campaign for Justice