



## THOMAS S. D'ANTONIO

Partner

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585.454.0715

Tom is an experienced litigator who counsels and defends clients on education, healthcare and employment matters, as well as varied business and commercial claims, and select internal and governmental investigations. He has conducted bench and jury trials and has argued over 100 appeals in federal and state appellate courts.

He regularly defends secondary and higher education institutions against claims of discrimination, harassment, and retaliation. He advises clients on and litigates faculty tenure reviews, denials, and revocations; handles the broad array of Title IV, VI, VII, and IX matters; counsels on academic freedom issues; conducts scientific and academic misconduct investigations and litigation; assists on governance and general not-for-profit matters; and handles student discipline and serious general liability cases.

In the healthcare setting, Tom represents hospitals, nursing homes, academic medical centers, and individual providers and provider networks in connection with Medicare and Medicaid reimbursement issues; the creation and implementation of internal compliance programs; various fraud and abuse matters; governmental and third-party payor investigations; False Claims Act and qui tam litigation; payor disputes; staff privilege and credentialing matters; professional licensure proceedings; and employment-related claims in the healthcare setting.

Tom's employment work includes counseling on an array of labor-related matters; training employers and employees on workplace conduct and compliance issues; and defending against claims of discrimination, harassment, and retaliation both at the agency level and in court.

He also handles various commercial matters, particularly those related to defamation, unfair competition and intercorporate disputes.

1800 Bausch & Lomb Place  
Rochester, NY 14604

### Practices & Industries

Business Litigation

Education

### Admissions

New York

Pennsylvania (Pending)

U.S. Court of Appeals, Second Circuit

U.S. District Court, Western District of 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, Eastern District of Pennsylvania - *pro hac vice*

U.S. District Court, Middle District of Pennsylvania - *pro hac vice*

U.S. District Court, Western District of Pennsylvania - *pro hac vice*

U.S. District Court, Southern District of Indiana - *pro hac vice*

U.S. District Court, Middle District of Florida - *pro hac vice*

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Tom's experience includes formal and informal dispute resolution, with an emphasis on neutral evaluation and mediation. He serves on the federal mediation panel in the Western District of New York and acts as Distinguished Counsel in New York for United Educators, as well as approved counsel for several other Employment Practices Liability and Educators Legal Liability insurers.

## Honors

- Listed, *Chambers USA: America's Leading Lawyers for Business* (Litigation: General Commercial), 2018 - 2023
- Listed, *Chambers USA: America's Leading Lawyers for Business* (Labor & Employment), 2019 - 2023
- Listed, *Best Lawyers in America* (Commercial Litigation, Education Law, Health Care Law, Litigation - Health Care, Litigation - Labor & Employment) 2001 - 2024
- Listed, *Upstate New York Super Lawyers*
- Martindale-Hubbell AV® Rating
- Recipient of the inaugural United Educators "Distinguished Counsel Award"
- Mediation Panel, Western District of New York
- Former Editor, *William & Mary Law Review*
- Former Member, William & Mary Moot Court Bar

## Experience

- Secured dismissal of the bulk of the claims asserted against the University in a multi-plaintiff Title IX case. *N.P. v. City University of New York*, Civil Action No. 20-cv-3059 (E.D.N.Y. Sept. 8, 2022).
- Obtained dismissal of all claims in federal and state court against health system and its employee alleging breach of confidentiality obligations, and awarding substantial sanctions against plaintiff. *Klein v. Catholic Health Svcs. of Long Island*, Index No. 613853/20 (Sup. Ct. Nassau Cty. July 26, 2022 and *Klein v. Aicher*, 2020 U.S. Dist. LEXIS 128979 (S.D.N.Y. July 21, 2020).
- Obtained dismissal of various reimbursement-related *qui tam* claims under the federal and New York State False Claims Acts, brought by former facility administrator, and secured certification of interlocutory appeal to Second Circuit as to sole remaining *qui tam* claim. *Matter of Quartararo ex rel. United States v. Catholic Health Svcs. of Long Is.*, 521 F. Supp. 3d 265 (E.D.N.Y. Feb. 22, 2021) and

U.S. District Court, Southern District of Florida - *pro hac vice*

## Education

Union College, B.A., cum laude

College of William & Mary School of Law, J.D.

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No. 12-cv-4425, 2017 U.S. Dist. LEXIS 50696 (E.D.N.Y. March 31, 2017).

- Court denied injunction application in vaccination challenge against College, leading plaintiffs to dismiss all claims. *Michalski v. St. John Fisher Coll.*, Index No. 8063/2021 (Sup. Ct. Onondaga Cty. Nov. 10, 2021).
- Court dismissed all claims against former tenant of commercial property in case where landlord challenged assignment and terms of *force majeure* clause in lease. *1699 Ridge Rd. E. vs. United Call Center Solutions, LLC*, Index No. E20203648 (Sup. Ct. Monroe Cty. Oct. 20, 2020).
- Secured dismissal of all claims against university and Dean arising from denial of former faculty member's tenure application. *Vengalattore v. Cornell Univ.*, 161 AD3d 1350 (3rd Dept., May 10, 2018), *reargument denied*, Docket No. 525462 (3rd Dept., Sept. 7, 2018).
- Courts dismissed plaintiff's complaints alleging "reverse Title IX" and breach of contract claims. *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.).
- Obtained dismissal of all significant claims in litigation brought by former student alleging disability discrimination, civil rights violations, false arrest claim, and numerous additional tort-based claims. *Bied v. Cty. of Rensselaer*, Civil Action No. 15-cv-1011 (TLM/DEP), 2018 U.S. Dist. LEXIS 55143 (N.D.N.Y., Mar. 30, 2018).
- Secured complete dismissal of ethnic and race discrimination claims, retaliation claims, and breach of contract claims asserted by former medical staff member. *Koul v. Univ. of Rochester*, 285 F. Supp. 3d 595 (W.D.N.Y. 2018).
- Obtained complete dismissal of action asserting defamation claims 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).
- Obtained numerous first impression rulings on coverage obligations owing to policyholder in connection with policyholder's claims arising from acts of employee dishonesty, resulting in highly favorable settlement of action. *Dataflow, Inc. v. Peerless Ins. Co.*, Civil Action No. 11-cv-1127 (LEK/DEP), 2014 U.S. Dist. LEXIS 138042 (N.D.N.Y., Sept. 30, 2014), *reconsideration denied*, 2015 U.S. Dist. LEXIS 140181 (Oct. 15, 2015).
- Secured judgments invalidating denials of challenges to Medicaid rate calculations on behalf of numerous nursing homes, resulting in global settlements totaling approximately \$12 million. *United Home for Aged Hebrews v. New York State Dept. of Health*, Index Number 16110-11 (Sup. Ct. Westchester Cty., Jan. 3, 2014) and *Matter of Howe Ave. Nursing Home-Montefiore v. New York State Dept. of Health*, Index. No. 16136-11 (Sup. Ct. Westchester Cty., May 23, 2014).
- Assisted large medical center in responding to a governmental investigation of service line provided through a third party, alleged to have engaged in potentially criminal conduct. The medical center was absolved of any wrongdoing or responsibility.
- Resolved with no monetary payment a whistleblower complaint alleging that more than one hundred public sector employees were hired in violation of the provisions of a specific New York State statute, and were compensated improperly as a result, in an amount exceeding \$25 million.
- Conducted internal investigation into claims that senior administrator at large medical center discriminated against hospital staff and violated institutional code of conduct, resulting in the imposition of recommended corrective action

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and in the avoidance of monetary exposure on the part of the institution.

- Investigated claims by potential whistleblower of irregularities in the manner in which a university's academic support program for student athletes was being conducted, and convincing whistleblower not to proceed with litigation.
- Conducted numerous other confidential investigations into a wide array of misconduct claims, including allegations of sexual misconduct, sexual harassment, academic and scientific misconduct, and management bullying of subordinate staff, at various for-profit and not-for-profit institutions.

## **Publications**

Tom has authored several journal articles in publications such as the *Journal of College and University Law*, the New York State Bar Association's *Health Care Journal*, and selected industry group publications.

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
  - *Annual Program Committee*
  - *Publication Committee*
  - *NACUA Notes Editorial Board*
- New York State Bar Association
  - *CPLR Committee*
  - *Health Law Section - Mentorship Committee*
  - *Commercial and Federal Litigation Section*
  - *Past Chair, Fraud, Abuse and Compliance Committee*
- American Health Lawyers Association

## **Community & Pro Bono**

- Chair of the Board of Trustees, McQuaid Jesuit High School
- Capital Campaign Steering Committee and Gala Chair, Our Lady of Mercy High School
- Former Board Chair, Kirkhaven Nursing Home
- Former Board Chair, Seniorsfirst Communities
- Former Board Chair, Community Management Services of Western New York
- Alumni Counselor, William & Mary Law School