



JASON E. MARKEL

Partner, OSHA Compliance Capabilities Practice
Leader

jmarkel@hodgsonruss.com 716.848.1395

Jason concentrates his practice on complex civil litigation in both the trial and appellate courts. He is a former appeals court clerk and has written and argued numerous appeals in the New York State appellate courts. His practice primarily encompasses general commercial and business litigation matters, such as disputes involving commercial contracts, contractor performance issues and construction contracts, corporate and partnership agreements, non-compete and non-solicitation clauses, and real property purchase agreements and leases. He is also experienced with commercial general liability insurance coverage matters and general personal injury and insurance defense.

Jason also devotes a significant portion of his practice to Occupational Safety and Health Act (OSHA) consulting, regulatory compliance counseling, and the defense and management of OSHA inspections and whistleblower claims. He has represented manufacturers, construction contractors, sawmills, dairies, nonprofits, coating and dipping facilities, warehouse operators, supermarkets, fabricators, machine shops, trenchers, hospitals, nursing homes, and many other businesses. He has published numerous articles regarding OSHA enforcement practices, compliance, and strategies for mitigating OSHA exposures.

Jason is a member of the firm's COVID-19 Litigation and Employment Action Team. He aids clients with COVID-19 safety-related labor and employment issues, including OSHA and NYS-based compliance guidance and whistleblower claims. He also assists clients with the interpretation of contractual force majeure clauses and contractor performance and change order disputes over pandemic-related price and time adjustments in construction contracts.

Jason has also given numerous webinar presentations addressing compliance and preparation for the defense of Paycheck Protection Program (PPP) loans and the litigation-based risks associated with Paycheck Protection Program (PPP) reviews and audits. He is also a co-author of the firm's "Borrower Beware" series of PPP client alerts.

The Guaranty Building
140 Pearl Street
Suite 100
Buffalo, NY 14202

Albany
677 Broadway
Suite 401
Albany, NY 12207
518.465.2333

New York City
605 Third Avenue
Suite 2300
New York City, NY 10158
212.751.4300

Practices & Industries

Business Litigation
Product Liability & Complex Tort
Construction
Education
Home Care
Occupational Safety & Health Act (OSHA)
Retail Sector

Admissions

New York
U.S. District Courts for the Western,
Eastern, and Southern Districts of

JASON E. MARKEL

Honors

- Listed, *Upstate New York Super Lawyers*, (Business Litigation) 2007, 2011 - 2015, 2017 - 2020
- Former computer editor, *Syracuse Law Review*
- Justinian Honorary Law Society

Experience

Successfully appealed and obtained reversal of the lower court's and Appellate Division's affirmance of a grant of partial summary judgment on liability entered against City in complex Human Rights Law discrimination case. The matter involved a disparate impact discrimination challenge to firefighter promotional eligibility lists created pursuant to New York's Civil Service Law.

Successfully obtained summary judgment in favor of housing authority on common law indemnification claim against contractor as relates to personal injury claim of subcontractor injured on premises during construction project.

Represented school district in alleged "sick building" case commenced by a group of students and teachers against contractors and manufacturers where plaintiffs sought to recover damages for illnesses allegedly caused by exposures to hazardous substances upon return to school following a renovation project. Successfully argued novel interpretation of CPLR 205(a) on appeal to the Appellate Division, which reversed the lower court's denial of motions to dismiss the complaint for repeated failure of plaintiff to comply with court-ordered discovery. Defended plaintiff's appeal of Appellate Division's Order to the Court of Appeals, which affirmed this dismissal based on the CPLR 205(a) argument.

Successfully defended manufacturer in preliminary injunction hearing alleging breach of Distribution Agreement regarding the sale and distribution of VOIP (voice over internet protocol) telecommunications devices to television cable companies.

Successfully defended public benefit corporation from series of administrative challenges, an Executive Law § 316 complaint, and a CPLR Article 78 proceeding commenced by contractor seeking to challenge a non-responsiveness bid disqualification on a construction project due to non-compliance with minority, women, and service-disabled veteran business enterprise utilization requirements under N.Y. Executive Law § 313 and associated regulations.

New York

Clerkships

New York State Court of Appeals,
1996-98

Education

Cornell University, B.S.

Syracuse University College of Law,
J.D., magna cum laude



JASON E. MARKEL

Successfully moved to dismiss action commenced by Workers Compensation Board against a former trustee alleging breaches of Trust Agreement and fraud associated with the management and administration of a defunct self-insured workers compensation trust formed pursuant to Workers Compensation Law § 50-a.

In the News

Thought Leaders - COVID-19 and Work Safety
Buffalo Business First, October 30, 2020

Hodgson Russ Partner Jason E Markel Named to Family Justice Center Board
January 10, 2007

Press Releases

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

Sixty Hodgson Russ Attorneys Named to 2019 Upstate New York Super Lawyers
Press Release, August 12, 2019

Sixty-One Hodgson Russ Attorneys Named to 2018 Upstate New York Super Lawyers
Press Release, August 20, 2018

Seventy Hodgson Russ Attorneys Named to 2017 Upstate New York Super Lawyers, Hugh Russ Listed Among Top 50
Press Release, September 6, 2017

Sixty-Four Hodgson Russ Attorneys Named to 2015 Upstate New York Super Lawyers, Hugh Russ Listed Among Top 50
Press Release, August 19, 2015

63 Hodgson Russ Attorneys Named to *Super Lawyers* Listing
Press Release, August 14, 2014

Seventy Hodgson Russ Attorneys Named to *Super Lawyers* Listing
August 2013

Publications

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

Alternative Instruction for Suspended Students
Hodgson Russ Education Alert, October 20, 2023

JASON E. MARKEL

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

NYSED to Begin Monitoring School District Websites for Compliance with Privacy Laws

Hodgson Russ Education Alert, July 21, 2023

Final New York State Budget Imposes New Requirements for New York Home Care Providers and Significant Financial Investments for the Health Care Industry

Hodgson Russ Home Care and Healthcare Alert, May 16, 2023

Orthodox Jewish Parent Group Challenges New York State Education Department Substantial Equivalency Regulations in State Court

Hodgson Russ Education Alert, April 18, 2023

New Year, New Home Care Laws: Medicaid-Funded Home Health Care Services Must Implement EVV by January 1, 2023

Hodgson Russ Home Care Alert, December 20, 2022

The Wait is Over: New York State Department of Health Releases the Licensed Home Care Services Agency Licensure Application

Hodgson Russ Home Care Alert, August 19, 2022

Presentations & Events

38th Annual School Client Conference

Buffalo Marriott Niagara 1340 Millersport Hwy, Amherst, NY 14221, January 13, 2023

37th Annual School Client Conference

Buffalo Niagara Marriott, 1340 Millersport Hwy, Amherst, NY 14221, May 6, 2022

Borrower Beware: Defending PPP Loans from After-the-Fact Government Scrutiny
Lawline, September 28, 2020

Borrower Beware: Defending PPP Loans from After-the-Fact Government Scrutiny
Albany County Bar Association, September 10, 2020

Borrower Beware: Defending PPP Loans from After-the-Fact Government Scrutiny
Korean American CPA Association (KACPA), September 3, 2020

JASON E. MARKEL

Borrower Beware: Defending PPP Loans from After-the-Fact Government Scrutiny
Buffalo Niagara Partnership, August 20, 2020

Borrower Beware: Defending PPP Loans from After-the-Fact Government Scrutiny
CCH/Wolters Kluwer, August 10, 2020

Borrower Beware: Defending PPP Loans from After-the-Fact Government Scrutiny
New York State Bar Association, August 7, 2020

CLE: Borrower Beware: Defending PPP Loans from After-the-Fact Government Scrutiny
Erie Institute of Law, July 29, 2020

COVID-19 Safety Considerations & Implications
July 1, 2020

Blog Posts

- New York Expands Healthcare Worker Whistleblower Protections

The Whistleblower Blog, June 25, 2020

- Borrower Beware: Prepare Now to Defend your Company's Paycheck Protection Program (PPP) Loan from SBA Review or a Possible False Claims Act or Criminal Investigation

The Whistleblower Blog, June 15, 2020

Professional Affiliations

- American Society of Safety Engineers

