



PATRICK J. HINES

Partner, Litigation Practice; Hemp & Medical Cannabis Practice Leader

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Patrick focuses his practice on business litigation and insurance defense matters. He has extensive experience defending catastrophic construction accident, products liability, car accident, and toxic exposure claims — including environmental mass tort litigation. In addition to his personal injury defense practice, Patrick handles a variety of business tort and contract litigation matters on behalf of financial institutions and other commercial clients, including claims involving breach of non-compete agreements, breach of fiduciary duty, tortious interference with contract, and other business torts. Patrick's commercial practice also involves defense and prosecution of claims involving intellectual property, including copyright and trademark disputes, trade secret claims, and confidentiality agreements.

Patrick is the leader of the Hodgson Russ Hemp & Medical Cannabis Practice. In that role, he advises clients on a range of issues affecting the cultivation, processing, distribution, and sale of cannabis and hemp products. Patrick provides counsel to businesses seeking licenses to operate within the industry, as well as clients seeking to do business with the cannabis industry, with a focus on regulatory compliance and risk minimization. Disclaimer: Possession, use, distribution, and sale of cannabis and cannabis products is illegal under federal law. No legal advice Hodgson Russ gives is intended to provide any guidance or assistance in violating federal law.

Patrick is also a member of the Hodgson Russ Media Law & First Amendment Practice, which counsels clients on matters such as defamation claims, privacy law, right of access to information, and free speech.

Before joining Hodgson Russ, Patrick served as a summer law clerk for U.S. District Judge William M. Skretny, and as an intern with the Office of the Attorney General for the District of Columbia.

Honors

- Listed, *Upstate New York Super Lawyers* (Business Litigation) 2023

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

Practices & Industries

Business Litigation
Cannabis & Hemp
Media & First Amendment
Product Liability & Complex Tort

Admissions

New York
United States Court of Appeals for the Federal Circuit
United States Court of Appeals for the Second Circuit
United States District Court – Western District of New York
United States District Court – Southern District of New York

Education

University at Buffalo, B.A., magna cum laude
University of Notre Dame Law School, J.D., magna cum laude

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- Listed, *Best Lawyers in America* Ones to Watch, (Commercial Litigation, Personal Injury Litigation - Defendants) 2022 - 2024
- Listed, *Upstate New York Super Lawyers* Rising Stars (Business Litigation) 2015 - 2022
- Former notes and submissions editor, *Notre Dame Law Review*
- William T. Kirby Award for excellence in brief writing, Notre Dame Law School

Experience

On behalf of a major construction company, Hodgson Russ attorneys successfully argued an appeal that expanded case law interpreting a key Industrial Code regulation that often underpins Labor Law § 241(6) claims. The ruling helped limit liability for the client and will do so for other construction companies going forward.

PJ Hines won an arbitration on behalf of a large regional bank client. The case involved a mortgage loan originator who sold a mortgage loan to the bank. After the sale, the loan immediately defaulted. The originator sought to recover funds it had deposited with the bank in order to make the bank whole from the default. The arbitrator found that the bank was entitled to retain the entire deposit, including all accrued interest.

Hodgson Russ attorneys advised an equipment manufacturer on the statutory and regulatory framework concerning the cultivation, processing, and distribution of hemp and hemp products.

One of our clients, an industrial manufacturer, was sued for breach of contract and breach of fiduciary duty after terminating a distributor agreement. Following discovery, Hodgson Russ attorneys were successful in having the case dismissed on motion for summary judgment despite the fact that the plaintiff had gone out of business after the termination.

A Hodgson Russ team led by Patrick Hines, Ryan Lucinski, and Emily Florczak secured victory for a publicly-traded company in a lengthy jury trial in New York state court. The case arose out of a love triangle among current and former company employees, where an employee was accused of harassing and stalking an ex-girlfriend and her boyfriend-turned-husband at work and off hours with the use of company equipment. The plaintiffs sued our client under a number of tort theories, all but one of which were dismissed on summary judgment and on appeal. Plaintiffs' negligent retention claim remained for trial. In short, plaintiffs claimed that our employer client acted negligently in supervising and retaining the allegedly-offending employee, and that it failed to adequately investigate plaintiffs' complaints of harassment, all of which caused them harm. Plaintiffs sought compensatory damages for emotional distress and punitive damages. After four weeks of proof, which included testimony from 15 lay and expert witnesses, the jury took 45 minutes to return a unanimous verdict in favor of our client. The jury did find that the allegedly harassing employee (now deceased) acted negligently, but his estate is judgment proof.

Stephen Kelkenberg and PJ Hines recently obtained summary judgment dismissing all claims against their financial services client, one of the largest regional banks in the United States. The case involved a plaintiff who had approached the bank with an idea for a branded consumer loan network for dental patients. Plaintiff claimed that the bank had orally committed to a joint venture despite the failure to sign the written agreement which plaintiff had originally proposed. When the project did not go forward, plaintiff sued for breach of the alleged joint venture, breach of fiduciary duty, and promissory

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estoppel. Plaintiff also claimed that the bank disclosed information protected by a confidentiality agreement, and wrongfully interfered with plaintiff's attempt to pursue its idea with other banks.

Kelkenberg and Hines successfully developed the record to defeat plaintiff's oral joint venture and fiduciary duty claims by showing that the parties did not intend to "carry out a single business enterprise for profit," and demonstrating that the parties had not reached an agreement to share in the "profits and losses of the business." In reaching these conclusions, the Court relied upon key admissions obtained during the depositions of plaintiff's executive team. The Court similarly dismissed plaintiff's promissory estoppel claim, finding that there was no "clear and unambiguous promise," and further that the bank had successfully demonstrated the absence of an "unconscionable injury" (both required elements under New York law). The Court also dismissed plaintiff's confidentiality and tortious interference claims, relying upon multiple party admissions and non-party statements which affirmatively refuted the material allegations in plaintiff's complaint. The net result is zero liability for the bank in the face of a complaint that sought in excess of \$15MM for compensatory losses, plus punitive damages and fees.

A Hodgson Russ team led by Ryan Lucinski successfully defended a major construction company, a municipality, and a school district in a lawsuit filed by a union carpenter who fell on "black ice" on a construction site and allegedly sustained career-ending injuries. The plaintiff contended that the defendants were negligent and violated Labor Law § 241(6). At trial, Ryan was able to exclude the testimony of plaintiff's meteorologist and counter with evidence of weather reports that refuted the alleged icy condition at the time of incident. After two weeks of proof, the jury returned a unanimous no-cause verdict in favor of our clients.

Hodgson Russ was appointed by the U.S. District Court for the Western District of New York to be lead counsel in an aviation wrongful death action involving the death of 50 people. The firm also represented seven of the victims' families. Cases were started all over the country, but were consolidated in a multidistrict litigation proceeding in Western New York, where Hugh M. Russ, III, the lead attorney for the Hodgson Russ team, has his primary office. The case has resulted in seven-figure settlements for each of the seven families we represented.

Hodgson Russ attorneys Ryan Lucinski and Patrick Hines successfully handled an appeal that strengthened the requirement that an alleged violation of Labor Law § 240(1) must cause a plaintiff's alleged injury. The plaintiff sued our client, which owned a construction site, and claimed that while working on a raised concrete slab, he tripped over demolition debris and sustained significant injuries to his ankle. He then fell off the slab, suffering other, minor injuries. After discovery, the trial court granted summary judgment to our client dismissing all claims related to the alleged ankle injury, finding no causal relationship between it and the 240 claim. The Appellate Division, Fourth Department, unanimously affirmed.

Hodgson Russ attorneys Ryan Lucinski and Patrick Hines successfully defended a manufacturer of industrial instrumentation in a products liability action venued in Missouri federal court. A farmer sued the manufacturer of an anhydrous ammonia applicator system that failed and exposed him to the noxious gas, causing severe chemical burns and a permanent neurological condition. The applicator manufacturer impleaded our client, alleging that its component pressure gauges caused or contributed to the accident. Hodgson Russ developed evidence in discovery that there were no defects in the client's product; that the gauges had been severely damaged and long required replacement; and that the applicator manufacturer was solely responsible for the selection and assembly of all components that comprised its system. During mediation, the case settled for seven figures, with our client contributing nuisance value.

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Hodgson Russ attorney Patrick J. Hines obtained summary judgment dismissing all claims against a construction management client, municipality, and school district. The plaintiff carpenter alleged he was walking on loose rebar laying across two concrete footers, creating a “bridge” between them, when the rebar rolled and he fell off. He brought Labor Law §§ 240(1) and 241(6) claims against the clients, alleging career-ending low back injuries. Hodgson Russ successfully established that the clients were not responsible for supervising the work of plaintiff or his employer, and that the Labor Law statutes and Industrial Code provisions on which plaintiff based his claims were inapplicable. Specifically, Labor Law § 240(1) was inapplicable because the accident did not result from the type of elevation-related risk contemplated by the statute. The Appellate Division, Fourth Department unanimously affirmed the decision on appeal.

A client was accused of sexually assaulting another student at the University they both attended. Reena Dutta and Patrick Hines took on the client's defense in a student disciplinary hearing, ultimately demonstrating to the University tribunal that the allegations lacked merit and that no disciplinary sanction was warranted. The client was allowed to continue at the University as a student and is on his way to a bright future, unclouded by sexual assault allegations on his record.

PJ Hines, Mike Maxwell and Christa Dines won summary judgment dismissing all of the plaintiff's claims against a longtime manufacturing client of Hodgson Russ. The case involved a forklift collision at the manufacturing plant, which caused catastrophic injuries to a worker. Plaintiff sued the plant on a theory that the design and layout of the facility caused or contributed to the accident. Our team used a comprehensive analysis of illuminance differentials to defeat the theory that “blinding light” from an open door prevented the plaintiff from seeing the forklift coming.

A Hodgson Russ team led by Benjamin Zuffranieri, Jr., Ryan Lucinski, and Patrick Hines won summary judgment in a products liability action venued in Texas state court. The client manufactured high-density lithium thionyl chloride batteries used to power subterranean drilling equipment. The decedent and his employer had misused the product by overheating it, causing catastrophic vent of the battery. The decedent's estate claimed that the client's product was defective because it failed to adequately warn of the dangers associated with overheating the product. The Hodgson Russ team successfully argued that the client's product was a defect-free component of a larger battery assembly designed and built by others, and that the client fulfilled its duty to warn those intermediaries. The estate's case against our client was dismissed in its entirety. At trial, the jury returned a verdict against the remaining defendants in excess of \$25,000,000.

In the News

Confusing start ends with judge voiding New York cannabis third-party marketing rules
Spectrum News, April 5, 2024

Could SMOKEOUT Act be the answer to shutting down unlicensed pot shops in NY?
The Buffalo News, February 20, 2024

How Do New York's Legal Cannabis Market Numbers Stack Up? Not Well
The Buffalo News, October 21, 2023

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5 Ways the State's Pot Industry Changed Wednesday

The Buffalo News, October 4, 2023

The State's Cannabis Market is Headed for Big Changes. What's Next?

The Buffalo News, September 27, 2023

Injunction Blocks NY Cannabis Dispensary Licensing; Hearing Set for Friday

WIVB-TV, August 9, 2023

Western New York's First State-Licensed Marijuana Dispensary Opens Next Friday

Spectrum News 1, July 14, 2023

Town Hall: First State-Licensed Dispensaries Set to Open in Western New York Next Week

WGRZ-TV, July 14, 2023

New York Budget Deal Increases Penalties for Illegal Pot Shops

The Buffalo News, May 2, 2023

New War on Weed: The State's Plan to Stomp Out Sticker Shops

The Buffalo News, April 24, 2023

Press Releases

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

August 23, 2023

83 Hodgson Russ LLP Attorneys Ranked in 2024 Edition of *Best Lawyers in America*

August 17, 2023

Fifty-Nine Hodgson Russ Attorneys Ranked in 2022 Edition of *Upstate New York Super Lawyers*

Hodgson Russ Press Release, August 23, 2022

71 Hodgson Russ Attorneys Ranked in 2023 Edition of *Best Lawyers in America*

Hodgson Russ Press Release, August 19, 2022

Fifty-Four Hodgson Russ Attorneys Ranked in 2021 Edition of *Upstate New York Super Lawyers*

Hodgson Russ Press Release, August 20, 2021

55 Hodgson Russ Attorneys Ranked in 2022 Edition of *Best Lawyers in America*

Hodgson Russ Press Release, August 19, 2021

Sixty-Two Hodgson Russ Attorneys Named to 2020 *Upstate New York Super Lawyers*

Hodgson Russ Press Release, September 8, 2020

Hodgson Russ Announces Three Newly Elected Partners, Six Attorneys Promoted to Senior Associate

Hodgson Russ Press Release, January 17, 2020

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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

Publications

Biden Administration to Reschedule Cannabis to Schedule III Under Controlled Substances Act
Hodgson Russ Cannabis & Hemp Alert, May 17, 2024

Supreme Court Provides Further Guidance on Public Officials First Amendment Rights on Social Media
Hodgson Russ Media & First Amendment and Municipal Alert, March 20, 2024

Second Circuit Modifies Injunction and Opens the Door for Dispensaries in WNY
Hodgson Russ Cannabis & Hemp Alert, March 29, 2023

An 11th-Hour Obstacle for Retail Cannabis Licensing in NY
Law360, November 21, 2022

NYS Facing First Lawsuit Over Retail Cannabis Dispensary Licensing Process
Hodgson Russ Cannabis & Hemp Alert, October 19, 2022

New York Releases Proposed Regulations for Packaging/Labeling and Marketing/Advertising Adult-Use Cannabis Products
Hodgson Russ Cannabis and Hemp Alert, July 7, 2022

New York Passes the Adult Survivors Act – Every Organization Should Prepare Now
Hodgson Russ Business Litigation Alert, May 25, 2022

New York Court of Appeals Reverses Multimillion Dollar Verdict
Hodgson Russ Product Liability & Complex Tort Alert, May 10, 2022

Trends in Product Liability Litigation & Legislation in New York - May 2022
Hodgson Russ Product Liability Litigation & Legislation Quarterly Update, May 2022

New York State Legislature Amends Open Meetings Law to Allow for Videoconferencing
Hodgson Russ Municipal and Education Alert, April 19, 2022

Presentations & Events

Kaleida Ball 2024
"A Night to Remember"
Kaleida Health Foundation, Buffalo Convention Center, March 2, 2024

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Cannabis Issues That Will Affect the Municipalities
Association of Erie County Governments, Bravo Cafe and Catering, April 28, 2022

The Business of Cannabis
Rochester Business Journal, June 24, 2021

Bridging the Gap
New York State Bar Association, June 23, 2021

New York State Marihuana Regulation and Taxation Act: What You Need to Know
June 15, 2021

New York State Marijuana Regulation and Taxation Act: What CPAs Need to Know Webcast
NYSSCPA, April 21, 2021

Demystifying the Impact of the COVID-19 Crisis on the Cannabis Industry: Hot Buttons LIVE Webcast
The Knowledge Group, December 17, 2020

Founder Story: Cannabis Industry Panel
Buffalo, New York, February 5, 2020

State and Local Regulation of Cannabis and Vaping
New York State Bar Association, New York Hilton Midtown, New York, N.Y., January 27, 2020

Professional Affiliations

- New York State Bar Association
- Bar Association of Erie County
- Defense Research Institute
- Member, New York State Bar Association, Committee on Cannabis Law

Community & Pro Bono

- Chair, Board of Directors: Neglia Ballet Artists (2019)

