



## JASON E. MARKEL

Partner, OSHA Compliance Capabilities Practice  
Leader

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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



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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**

The Final New York State Budget is Approved and Imposes Significant Disruptions for New York Home Care Providers  
*Hodgson Russ Home Care Alert*, May 6, 2024

OSHA Alters the Balance on Employee Representation During Walkaround Inspections- Opening the Door to Union Organizing and Leaving Many Practical Questions Unanswered  
*Hodgson Russ Occupational Safety & Health Act Alert*, May 3, 2024

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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

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

## **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

*Borrower Beware: Defending PPP Loans from After-the-Fact Government Scrutiny*

Buffalo Niagara Partnership, August 20, 2020

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*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