

Michael Nicholson

Partner

Rochester
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Education

- University of Pittsburgh School of Law, JD
- Hobart College, *Magna Cum Laude*, BA

Practices & Industries

- Commercial Litigation & Complex Trials
- Property Tax & Condemnation
- Energy

Admitted to Practice

- New York
- Texas
- District of Columbia

Court Admissions

- US District Court for the Northern District of New York
- US District Court for the Southern District of New York
- US District Court for the Eastern District of New York
- US District Court for the Western District of New York
- US Bankruptcy Courts for the Northern, Southern, Eastern, and Western Districts of New York
- US Court of Appeals for the Second Circuit
- US Court of Appeals for the Third Circuit

Biography

A broad-based commercial litigator, Michael concentrates his practice on representing clients in the energy industry on complex real property tax disputes, providing litigation services and strategic counseling and handling settlement negotiations across the country on a variety of sophisticated matters. He has a national practice with experience working on multimillion-dollar tax assessment litigation for the firm's clients in New York, California, Texas, Michigan, North Carolina, Massachusetts, and other states on both fossil fuel and renewable energy facilities as well as commercial properties.

In addition to his real property tax litigation practice, Michael has considerable experience counseling corporations in commercial disputes, litigating at both the trial and appellate levels in state and federal courts. He also has Chapter 11 bankruptcy and creditors' rights experience.

Bar Associations

- Monroe County Bar Association
- New York State Bar Association
- Onondaga County Bar Association

Selected Memberships & Affiliations

- Federalist Society

Representative Experience

- Successfully briefed and argued appeal before Vermont Supreme Court defending seven-figure judgment awarded at trial to power plant portfolio owner.

- US Court of Appeals for the Fourth Circuit
- US Court of Appeals for the Fifth Circuit
- US Supreme Court

- Represented power plant portfolio owner on appeal to New Hampshire Supreme Court resulting in multi-year settlement across multiple power generating facilities totaling seven-figure tax savings for client.
- Represented retail business enterprise in appeal to New York Appellate Division regarding unlawful enforcement of zoning ordinance against local retail store, obtaining reversal of Supreme Court order.
- Represented national financial services company in appeal to New York Appellate Division regarding application of choice of law provision to commercial financial services agreement, obtaining reversal of Supreme Court order.
- Represented municipality in large western State in multiple concurrent trial proceedings brought by storage facility operators, obtaining outright dismissal of principal action and favorable settlement of all others.
- Represented Pennsylvania company in New York Supreme Court breach of contract dispute, obtaining dismissal of client from proceedings with prejudice.
- Represented power generating company in Texas state court action regarding valuation of assets, obtaining favorable resolution before trial.
- Represented western coastal State in dispute over statewide value of telecommunications assets, obtaining favorable resolution during trial.
- Represented nuclear power generating facility in nine-figure valuation dispute, obtaining favorable resolution before trial.
- Represented municipal Industrial Development Agency in multi-layered financial agreement dispute involving domestic and international entities, obtaining favorable resolution before trial.
- Represented Delaware corporation in federal breach of contract and fraud action against international defendants, swiftly obtaining favorable settlement for client.
- Represented defendant corporation in multiple distinct actions in state, federal, and bankruptcy courts concurrently, with claims totaling approximately $25 million. Successfully opposed critical summary judgment motion seeking $10 million in damages and debilitating equitable relief, and won cross-motion dismissing the underlying action.
- Represented corporations in investigations by the NYS Attorney General, obtaining discontinuance of investigations in each case.
- Represented individuals and municipalities in the litigation of New York real-property disputes and Article 78 proceedings, obtaining judgment in favor of the client in each case.
- Represented regional bank in state court action, obtaining dismissal with prejudice of a critical case by commercial borrower, raising issues of first impression with respect to lender liability that, if recognized, may have resulted in

sweeping exposure for the bank on its entire commercial-loan portfolio.

- Represented regional food manufacturer and distributor throughout a successful Chapter 11 reorganization and litigated various motions and claims objections, obtaining relief critical to successful reorganization.
- Represented equipment-finance company in action against directors of a corporate borrower attempting to avoid liability by dissolving and reincorporating while swapping directors. Obtained personal judgments against directors, repossession of collateral, and dismissal of all counterclaims.

Prior Experience

- Hiscock & Barclay, LLP, Associate
- Harter Secrest & Emery LLP, Associate

Selected Community Activities

- Law Explorers Regional Mock Trial Competition, Coach