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Practice Areas

Alternative Dispute Resolution
 Business Litigation
 Entertainment, Media and
 Publishing
 Intellectual Property and
 Technology
 Real Estate and Finance
 Zoning, Planning and Land Use

Robert H. Miller

Shareholder

Practice Focus

Rob is a member of the firm's Management Committee. His active business litigation practice focuses on complex commercial disputes in the federal courts, including false and deceptive trade practice and false advertising claims, commercial fraud and misrepresentation claims, trade libel, products liability, civil RICO, and breach of fiduciary duty claims, as well as disputes involving intellectual property including trademark, trade dress and copyright litigation. He is also one of New Hampshire's most experienced litigators on the scope and application of the New Hampshire Consumer Protection Act, NH RSA 358-A, as applied in both consumer against business and business against business cases in New Hampshire's state and federal courts. Rob is also a seasoned appellate advocate before the New Hampshire Supreme Court.

Rob also handles certain commercial real estate litigation issues, including nuisance claims, franchise disputes, and Constitutional litigation claims under 42 USC 1983, including equal protection, due process and bad faith claims brought against municipalities, boards and elected officials on behalf of developers and other commercial interests attempting to construct or expand operations. Rob chairs the firm's Land Use Litigation Group and is frequently called upon to handle continuous permitting issues before local land use boards, or to take over the litigation of these issues in the state and federal courts.

Rob is an aggressive litigator who is well-versed in electronic discovery and the collection of electronically stored information (ESI) and in the latest technologies available to efficiently develop and prepare a case for trial. He has successfully tried cases to juries, judges and administrative tribunals in the state and federal systems. That said, Rob also appreciates that in many cases, skillfully mediating a dispute prior to trial can produce the optimal business outcome while simultaneously fixing risk, and he has extensive experience preparing cases for mediation and bringing cases to successful conclusion in that forum.

Sample Matters

- Won a defendant's jury verdict in the United States District Court for the District of New Hampshire on behalf of Ambient Pressure Diving, Ltd., the English manufacturer of sophisticated scuba diving equipment known as the Inspiration Rebreather in an internationally monitored wrongful death products liability case. The federal jury rejected allegations by the Plaintiff that a combination of electronic and software failures of the Inspiration's patented redundant control systems caused the rebreather to stop delivering oxygen to her husband underwater, causing him to pass out due to hypoxia and drown.

- Successfully defended a multimillion dollar commercial fraud and unfair trade practices suit in the United States District Court for the District of New Hampshire by a New Hampshire-based company against our Florida-based client arising out of an unsuccessful attempted vertical integration of the two companies by a venture capital firm. The case settled at mediation for less than one percent of the initial demand.
- Successfully defended a federal trademark infringement and Consumer Protection Act case in the United States District Court against a national software company accused of misuse of trademarks and misrepresentation in advertising by settling all claims against the client on favorable terms.
- Successfully represented a well-known New York City literary agency against a major New York City publishing house and a best-selling celebrity author in a contract action for unpaid royalties and rights to subsidiary works.
- Prosecuted federal 42 USC 1983 civil rights and abuse of office claims against the Town of Salisbury, New Hampshire Board of Selectmen and Zoning Board on behalf of a local landowner attempting to build homes on a Class VI Road – obtaining all permits sought by the landowner and a significant reimbursement of attorneys fees and costs from the Town after a mediated settlement.
- Successfully represented a prominent professional sports franchise in an Internet cybersquatting dispute involving domain name misuse and trademark infringement.
- Settled a noise nuisance lawsuit brought by residential clients in a resort community against an abutting business conducting amplified outdoor events as a nonconforming use in a residential zoning district. The case settled on terms favorable to our clients after a two-day preliminary injunction hearing.
- Successfully defended a six-figure timber trespass suit on behalf of a commercial client accused of illegally cutting an abutter's shade trees during the course of a commercial expansion project. After aggressive discovery, the case settled at mediation for less than 20 percent of the initial demand.
- Successfully managed the termination-for-cause of a national service vendor on behalf of our client, a professional sports franchise. The termination was effectuated by a settlement of disputed claims and exchange of releases after extended negotiation, and without the need to commence litigation.
- Successfully obtained a Final Certificate of Occupancy for a hotel client after lengthy negotiations with a municipality's Planning, Zoning and Code Enforcement Departments.
- Successfully argued the landmark Consumer Protection Act case *Rowse v. State Park Realty* at the New Hampshire Supreme Court – which established realtors' liability under the Act and imposed strict liability for violation of the Act's enumerated categories – resulting in a significant, six-figure settlement for our client.
- Successfully argued that state statutory and regulatory law preempted local zoning in representing the Hawthorne-Feather Airport in establishing new, state-of-the-art hangars and other upgrades at its facility in Deering, New Hampshire.
- Won an award of multiple damages and attorney's fees on behalf of a contractor suing for unfair and deceptive trade practices under the New Hampshire Consumer Protection Act, and successfully defended the appeal at the New Hampshire Supreme Court.
- Won a landmark decision from the United States District Court establishing personal jurisdiction over a major international organization in an Americans with Disabilities Act discrimination suit.

Memberships and Admissions

Rob is a member of the New Hampshire Bar Association, and is licensed to practice in the New Hampshire state courts, the United States District Court for the District of New Hampshire, and before the United States Court of Appeals for the First Circuit.



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the business law firm

Community Involvement

Rob presently serves on the Board of Directors and the Executive Committee of YMCA Camp Belknap and coaches boys soccer and baseball. He serves as an alumni interviewer for Yale University, and is a past-President of the Yale Club of New Hampshire. Rob is also a well-known published author whose books, including Law School Confidential, Med School Confidential, Business School Confidential, and Campus Confidential are best-sellers in their fields and have been translated into multiple languages.

Honors

Before joining Sheehan Phinney in 1999, Rob was a law clerk to Chief Judge Paul J. Barbadoro of the United States District Court for the District of New Hampshire. At the University of Pennsylvania Law School, he was appointed as an H. Clayton Louderback Instructor in Legal Writing and served as Chairman of the law school's Committee on Honors and Academic Standing, was Senior Editor of The University of Pennsylvania Law Review and published in The University of Pennsylvania Law Review. In 2009 and 2010 Law and Politics Magazine named Rob a Rising Star and in 2011 he was named a New England Super Lawyer, both in the area of Business Litigation. In 2004 he was named one of the state's Forty Under 40 by the *New Hampshire Union Leader*. He is a 2009 graduate of Leadership New Hampshire.

Education

B.A., with distinction, Yale University

J.D., University of Pennsylvania Law School