



## John G. Powers

*Partner*



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John Powers is a litigator that advocates for firm clients in complicated civil disputes. While he regularly appears in federal and state court and arbitration to try cases, his goal is always to seek the shortest and most sensible path to resolution.

Mr. Powers' clients include manufacturers, construction owners and other construction professionals, municipalities, publicly and privately-held corporations of all types, small businesses, and individuals. Among other practice areas, he is experienced in product liability litigation, construction litigation, intellectual property and trade secret litigation, and complex contractual and intra-corporate disputes of all types. Mr. Powers also provides ongoing counsel regarding risk management, dispute resolution and dispute avoidance prior to the emergence of litigation.

Mr. Powers is a court-approved mediator for the Federal District Court for the Northern District of New York, providing assistance to other litigants in resolving their disputes. He also frequently appears as local counsel on behalf of other firms representing out-of-state defendants involved in litigation in Upstate New York.

Mr. Powers previously practiced with the *Arent Fox* law firm, in Washington, D.C., and served as a federal judicial law clerk for two years for the Honorable Frederick J. Scullin, Jr., United States District Court Judge for the Northern District of New York. Prior to becoming an attorney, Mr. Powers served on active duty in the military as an Army Infantry Officer.

## PRACTICE AREAS

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- Alternative Dispute Resolution
- Litigation
- Commercial Litigation
- Personal Injury Defense
- Products Liability Litigation
- Professional Liability
- Intellectual Property
- Construction
- Education
- Labor & Employment
- Municipal
- Military

## REPRESENTATIVE MATTERS

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- Obtained summary judgment and defeated subsequent appeal on million dollar delay/disruption construction claim on behalf of municipal client.
- Obtained summary judgment and defeated subsequent appeal on behalf of the State of New York in a multi-million dollar USERRA class action.
- Obtained multi-million dollar jury verdict in federal court in property damages insurance dispute.
- Obtained federal court dismissal for Minnesota manufacturing company based on personal jurisdiction challenge.
- Tried and favorably resolved wrongful death case against municipal client.
- Obtained summary judgment for municipal client in federal court strip search class action.
- Obtained summary judgment for municipal client to defeat multiple race and retaliation §1983 claims by former employee.
- Obtained dismissal of product liability claim for manufacturer for failure to prosecute.
- Obtained dismissal of *qui tam* action against municipal defendant for improper venue.
- Defeated preliminary injunction motion on behalf of individual defendants by former employer in trade secret litigation.
- Defeated a summary judgment motion brought against a small business in a multimillion-dollar trade secret theft case.
- Obtained summary judgment for municipal client to defeat multiple race and retaliation §1983 claims.
- Obtained a defense jury verdict for a medical device manufacturer on a \$26 million tortious interference action tried in federal court in the Western District of Pennsylvania.
- Obtained a summary judgment in the Western District of Pennsylvania which dismissed multimillion-dollar antitrust claims. Successfully defended the verdict on appeal to the United States Circuit Court of Appeals for the Federal Circuit.
- Obtained a defense jury verdict for a municipality in an Equal Pay Act action tried in federal court in the Northern District of New York.
- Obtained a preliminary injunction in federal court on behalf of an energy industry manufacturer to prevent a competitor from utilizing misappropriated technical information obtained from a prior employee.
- Obtained a partial summary judgment on the issue of liability for a design-build contractor on a \$1.3 million claim by a subcontractor on a construction project on federal military installation.
- Obtained a defense jury verdict for an individual defendant in a sexual harassment action tried in federal court in the Northern District of New York.
- Obtained a voluntary dismissal of a products liability claim brought against a medical device manufacturer in a wrongful death action (venued in Arizona).
- Litigated various products liability cases in New York, California, Alabama, Texas, Tennessee, Pennsylvania and Connecticut to successful conclusion via settlement.
- Tried an EPCRA environmental penalty hearing for an energy company before an EPA administrative law judge.
- Obtained a dismissal on behalf of a New York manufacturer of a contract/tort action brought by a Washington distributor in federal court in the Western District of Washington.
- Negotiated environmental liability/site remediation settlement on behalf of a manufacturer for underground contamination in Florida.
- Arbitrated a \$6.6 million intracorporate dispute on behalf of a municipal health care cooperative.
- Obtained a Yellowstone injunction for a landfill gas recovery and power generation company, preventing a municipality from terminating a landfill gas use leasehold.
- Obtained a summary judgment of non-infringement on a patent infringement claim brought against a New York manufacturer by a German competitor.
- Litigated various *Markman* hearings in the Western District of Pennsylvania and the District of Colorado.

## REPORTED DECISIONS

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- *Weydman Elec., Inc. v. Joint Schools Const. Bd.*, - A.D.3d - 2016 WL 3201574 (4th Dept. June 10, 2016)
- *Andrews v. State*, 138 A.D.3d 1297 (4d Dept. 2016)
- *Laskowski v. Liberty Mut. Fire Ins. Co.*, 2015 WL 2130938 (N.D.N.Y. May 7, 2015)
- *Wright v. City of Syracuse*, 2014 WL 1293527 (N.D.N.Y. March 31, 2014)
- *U.S. ex rel. Doe v. Taconic Hills Cent. School Dist.*, 8 F.Supp.3d 339 (S.D.N.Y. 2014)
- *Mothersell v. City of Syracuse*, 289 F.R.D. 389 (N.D.N.Y. 2013)
- *Lopez v. Smurfit-Stone Container Enterprise, Inc.*, 289 F.R.D. 103 (N.D.N.Y. 2013)
- *Genesee/Wyoming YMCA v. Bovis Land Lease LMB, Inc.*, 98 A.D.3d 1242, (4th Dept. 2012)
- *American Underground Engineering, Inc. v. City of Syracuse*, 2012 WL 3202853 (N.D.N.Y. August 2, 2012)
- *American Underground Engineering, Inc. v. City of Syracuse*, 2011 WL 4809882 (N.D.N.Y. October 11, 2012)
- *Stork H & E Turbo Blading, Inc. v. Berry*, 32 Misc.3d 1208(A), 932 N.Y.S.2d 763 (Sup. Ct., Tompkins Cty., 2011)
- *ERBE Electromedizin GmbH v. Canady Technology LLC*, 629 F.3d 1278 (Fed. Cir. 2010)
- *Brown v. City of Syracuse*, 677 F.Supp.2d 576 (N.D.N.Y. 2010)
- *Brown v. City of Syracuse*, 648 F.Supp.2d 461 (N.D.N.Y. 2010)
- *State of New York v. M & E Technical Servs.*, 2009 WL 2878451 (N.D.N.Y. 2009)
- *Parkis v. Microsoft Corp.*, 2009 WL 1585003 (N.D.N.Y. 2009)
- *Lee v. City of Syracuse*, 603 F.Supp.2d 417 (N.D.N.Y. 2009)
- *Silveira Industries, Ltd. v. Actus Lend Lease, LLC*, 2008 WL 5423033 (N.D.N.Y. 2008)
- *Actus Lend Lease LLC v. Integrated Building Resources Development LLC*, 2007 WL 2362389, N.D.N.Y. 2007)
- *ERBE Electromedizin GmbH v. Canady Technology LLC*, 529 F.Supp.2d 577 (W.D.Pa. 2007)
- *ERBE Elektromedizin GmbH v. Canady*, 512 F.Supp.2d 297 (W.D.Pa. 2007)
- *Board of Educ. of Liverpool Cent. School Dist. v. Central New York Health Ins. Trust*, 28 A.D.3d 1251, 812 N.Y.S.2d 917 (4th Dept. 2006)
- *Broome Landfill Gas Associates, LP v. County of Broome*, 10 Misc.3d 1022, 806 N.Y.S.2d 388 (Sup Ct., Broome Cty., 2005)
- *United Computer Capital Corp. v. Daidone*, 2005 WL 579565 (N.D.N.Y. 2005)
- *PST Services, Inc. v. Larson, et al.*, 221 F.R.D. 33 (N.D.N.Y. 2004)
- *Conmed Corp. v. Erbe Electromedizin, GmbH*, 241 F. Supp.2d 187 (N.D.N.Y. 2003)
- *City of Rome v. Verizon Communications, Inc.*, 240 F. Supp. 2d 176 (N.D.N.Y. 2003)
- *Conmed Corp. v. Ludlow Corp.*, 235 F. Supp.2d 109 (N.D.N.Y. 2003)
- *GA Braun Inc. v. G & A Laundry, Inc.*, 2000 U.S. Dist. Lexis 14188 (N.D.N.Y. July 30, 2002)
- *Harris v. Niagara Mohawk Power Corp.*, 252 F.3d 592 (2d Cir. 2001)
- *In re Cortland Memorial Hospital*, Bâ€™286890, March 5, 2001, 2001 Comp. Gen. Proc. Dec. 48
- *Conmed Corp. v. Erbe Electromedizin, GmbH*, 129 F. Supp.2d 461 (N.D.N.Y. 2001)
- *Toledo Technologies, Inc. v. INA Walzlager Schaeffler Kg*, 1999 U.S. Dist. Lexis 13415 (N.D. Ohio 1999)

## RECOGNITIONS AND HONORS

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- Rated, AV Preeminent, Martindale-Hubbell
- Selected, Upstate - New York, Super Lawyers (2010-2017)
- Recipient, Syracuse Vet Center Award (2013)
- Recipient, Pro Bono Service Award, New York State Bar Association (5th Judicial District)
- [Empire State Counsel, New York State Bar Association \(2013\)](#)
- Recipient, "Humanitarian of the Year" Award, Vietnam Veterans of America Central New York Chapter #103 (2011)
- Recipient, OCBA Distinguished Pro Bono Service Award, Onondaga County Bar Association (2010)

## PROFESSIONAL AND COMMUNITY ACTIVITIES

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- Member of Board of Trustees, Northern District of New York Federal Court Bar Association
- Member of Judiciary Committee, Onondaga County Bar Association
- Administrator of Onondaga County Bar Association Veteran's Legal Clinic
- Member, New York State Bar Association
- Empire State Counsel, New York State Bar Association
- Member of Board, Hiscock Legal Aid Society
- Member, Association of General Contractors of New York State
- Board of Directors and Chair of Community Residential Services Subcommittee, ARC of Onondaga
- Member of Board, Autism Society of America, CNY Chapter
- Member, Fort Drum Regional Liaison Organization
- Former Adjunct Professor, Newhouse School of Communications, Syracuse University, Communications Law, Fall Semester 2006
- Former Member of Board of Directors and Past President, McMahan/Ryan Child Advocacy Center

## SPEAKING ENGAGEMENTS

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- MedTech and CenterState CEO, Syracuse Pre-Seed Workshop (February 2016)
- New York Public Authorities Construction Contact Workshop, White Plains NY, "Practical Contract Administration and Examining Legal Issues and Disputes" (July 31, 2015)
- New York State-Federal Judicial Council, "Attorney Privilege and Work Product" (June 4, 2015)
- NDNY Federal Court Bar Association, "Hot Topics in Intellectual Property" (December 2014)
- NDNY Federal Court Bar Association, "Drafting 101: Complaints and Removal Papers" (March 18, 2013)
- NDNY Federal Court Bar Association, "A Practitioner's Primer on Attorney-Client Privilege and Work Product Doctrine" (Watertown NY, 2012)
- New York State Bar Association, "Defaults by Owners, Mechanic Lienors and Lenders in Construction Contracts" (2010)
- Lorman Presentation, "Key Issues in Managing Construction Claims and Disputes" (June 2009)
- Lorman Presentation, "Construction Contracting Procurement Methods and Handling of Claims" copresented with Hancock Estabrook partner James Hughes (May 2009)
- Cornell and OCM BOCES Symposium, "An Overview of the Formation and Governance of Municipal Health Consortiums under Article 5-G of the New York General Municipal Law" (2007)
- NDNY FCBA Presentation, "Electronic Discovery in Civil Litigation: Coping with the 2006 Amendments to the Federal Rules of Civil Procedure" (2006)
- OCBA Commercial Law Section, "The Creation and Exclusion of Warranties under the New York Uniform Commercial Code" (2006)
- Risk Management Seminar, "CNY MedTech Presentation" (2006)
- NDNY FCBA Presentation, "Ethics and Professionalism from the Judicial Perspective for Attorneys Who Practice in Federal and State Courts" (2005)
- NDNY FCBA Presentation, "Technology and Modern Civil Litigation Electronic Discovery and the Effective Use of Courtroom Technology - PART III Use of Courtroom Technology at Trial" (2004)
- Onondaga County Bar Association Federal Practice Series CLE Program, "Dispositive Motions and Their Relationship to CM/ECF" (December 2003)
- Onondaga County Bar Association Federal Practice Series CLE Program, "Dispositive and NonDispositive Motions" (December 2002)
- Onondaga County Bar Association Federal Practice Series CLE Program, "Motions to Remand" (May 2002)

## PRESS AND PUBLICATIONS

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- "Does Product Design Liability Exist Outside the Chain of Distribution?", *New York Law Journal Special Litigation Report*, February 2014
- "New York Case Notes", *Product Liability Perspectives, ALFA International, Winter 2010, Vol. 6, Issue 1*
- "Planning for Forum Selection in Commercial Transactions", *New York State Bar Association Journal, Vol. 78, No. 2*, February 2006
- "Federal Preemption of State Tort Suits Available for "PMA" Medical Devices", *Legal Backgrounder, Vol. 20, No. 20*, May 6, 2005
- "Sexual Harassment: To What Extent Need the Conduct be Sexual in Nature", *NY Litigator, Vol. 8, No. 1*, Winter 2003

## EDUCATION

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- Juris Doctor, *summa cum laude*, Syracuse University College of Law, 1996
  - Syracuse Law Review, Notes and Comments Editor
  - Justinian Honor Society, President
  - George and Evelyn Marcus Award
  - Order of the Coif
- Master of Public Administration, Maxwell School of Citizenship and Public Affairs, Syracuse University, 1996
- Bachelor of Science, United States Military Academy at West Point, 1988

## ADMISSIONS

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- District of Columbia
- New York
- United States Court of Appeals (Federal Circuit)
- United States Court of Appeals (Second Circuit)
- United States District Court (District of Columbia)
- United States District Court (EDNY)
- United States District Court (NDNY)
- United States District Court (SDNY)
- United States District Court (WDNY)
- United States Supreme Court