



## Thomas D'Antonio

Partner

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585.454.0715

Administrative & Regulatory Proceedings

Business Litigation & Counseling

Education

Gas & Electric Utilities

Government & Internal Investigations

Healthcare

Insurance Recovery & Counseling

Labor & Employment

Professional Liability

## PROFILE

Tom's practice focuses on higher education, healthcare, employment, the defense of varied business, unfair competition, and commercial claims, and handling selected white collar matters. He has conducted bench and jury trials, and has argued over 100 appeals. A skilled advisor, Tom delivers practical and prompt advice, and collaborates with clients on matters of substance and strategy.

For institutions of secondary and higher education, Tom regularly defends against claims of discrimination, harassment, and retaliation; advises and litigates faculty tenure reviews, denials, and revocations; handles the broad array of Title VI, VII, and IX matters; academic freedom issues; scientific and academic misconduct investigations and litigation; governance matters; general not-for-profit issues; student discipline claims; and serious

general liability cases. His experience also includes formal and informal dispute resolution, with an emphasis on neutral evaluation and mediation. He serves on the federal mediation panel in the Western District of New York, and he also acts as Select Counsel in New York for United Educators, and is approved counsel for education matters for several other Employment Practices Liability and Educators Legal Liability insurers.

Tom's healthcare work includes the representation of hospitals, nursing homes, academic medical centers, and individual providers and provider networks in connection with Medicare and Medicaid reimbursement issues; the creation and implementation of internal compliance programs; various fraud and abuse matters; governmental and third-party payor investigations; False Claims Act and *qui tam* litigation; payor disputes; staff privilege and credentialing matters; licensure proceedings; and employment-related claims in the healthcare setting.

His employment work includes counseling on an array of labor-related matters; training employers and employees on workplace conduct and compliance issues; and defending against claims of discrimination, harassment, and retaliation both at the agency level and in court. Tom also handles various commercial matters, particularly those related to unfair competition and intercorporate disputes.

When not in the office, Tom spends his time traveling to Bald Head Island, fishing, reading, working on household projects, and visiting (along with his wife Kathy) with his many children.

## Representative Experience

- Secured dismissal of all claims against university and Dean arising from denial of former faculty member's tenure application. *Vengalattore v. Cornell Univ.*, 161 AD3d 1350 (3rd Dept., May 10, 2018), *reargument denied*, Docket No. 525462 (3rd Dept., Sept. 7, 2018).
- Courts dismissed plaintiff's complaints alleging "reverse Title IX" and breach of contract claims. *B.B. v. The New School*, Index No. 159161/17 (Sup. Ct. NY Cty., Sept. 26, 2018) and *B.B. v. The New School*, Civil Action No. 17-cv-8347 (AT), 2018 U.S. Dist. LEXIS 80068 (S.D.N.Y.).
- Obtained dismissal of various reimbursement-related *qui tam* claims under the federal and New York State False Claims Acts, brought by former facility administrator. *Matter of Quartararo ex rel. United States v. Catholic Health Svcs. of Long Is.*, No.12-cv-4425, 2017 U.S. Dist. LEXIS 50696 (E.D.N.Y., March 31, 2017).

- Obtained dismissal of all significant claims in litigation brought by former student alleging disability discrimination, civil rights violations, false arrest claim, and numerous additional tort-based claims. *Bied v. Cty. of Rensselaer*, Civil Action No. 15-cv-1011 (TLM/DEP), 2018 U.S. Dist. LEXIS 55143 (N.D.N.Y., Mar. 30, 2018).
- Secured complete dismissal of ethnic and race discrimination claims, retaliation claims, and breach of contract claims asserted by former medical staff member. *Koul v. Univ. of Rochester*, 285 F. Supp. 3d 595 (W.D.N.Y. 2018).
- Obtained complete dismissal of action asserting defamation claims against medical center and fourteen individual members of its staff and administration asserted by a former medical staff member. *Colantonio v. Mercy Medical Center*, 135 AD3d 686 (2nd Dept.), *lv. denied*, 28 NY3d 903 (2016).
- Obtained numerous first impression rulings on coverage obligations owing to policyholder in connection with policyholder's claims arising from acts of employee dishonesty, resulting in highly favorable settlement of action. *Dataflow, Inc. v. Peerless Ins. Co.*, Civil Action No. 11-cv-1127 (LEK/DEP), 2014 U.S. Dist. LEXIS 138042 (N.D.N.Y., Sept. 30, 2014), *reconsideration denied*, 2015 U.S. Dist. LEXIS 140181 (Oct. 15, 2015).
- Secured judgments invalidating denials of challenges to Medicaid rate calculations on behalf of numerous nursing homes, resulting in global settlements totaling approximately \$12 million. *United Home for Aged Hebrews v. New York State Dept. of Health*, Index Number 16110-11 (Sup. Ct. Westchester Cty., Jan. 3, 2014) and *Matter of Howe Ave. Nursing Home-Montefiore v. New York State Dept. of Health*, Index. No. 16136-11 (Sup. Ct. Westchester Cty., May 23, 2014).
- Assisted large medical center in responding to a governmental investigation of service line provided through a third party, alleged to have engaged in potentially criminal conduct. The medical center was absolved of any wrongdoing or responsibility.
- Resolved with no monetary payment a whistleblower complaint alleging that more than one hundred public sector employees were hired in violation of the provisions of a specific New York State statute, and were compensated improperly as a result, in an amount exceeding \$25 million.
- Conducted internal investigation into claims that senior administrator at large medical center discriminated against hospital staff and violated institutional code of conduct, resulting in the imposition of recommended corrective action and in the avoidance of monetary exposure on the part of the institution.

- Investigated claims by potential whistleblower of irregularities in the manner in which a university's academic support program for student athletes was being conducted, and convincing whistleblower not to proceed with litigation.
- Conducted numerous other confidential investigations into a wide array of misconduct claims, including allegations of sexual misconduct, sexual harassment, academic and scientific misconduct, and management bullying of subordinate staff, at various for-profit and not-for-profit institutions.

## CREDENTIALS

### Education

- College of William & Mary School of Law, J.D., 1982
  - *Editor, William & Mary Law Review*
  - *Member, William & Mary Moot Court Bar*
- Union College, B.A., *cum laude*, 1979

### Admissions to Practice

- New York
- Pennsylvania (pending)
- U.S. Court of Appeals, Second Circuit
- U.S. District Courts of New York (All Districts)
- U.S. District Courts of Pennsylvania (All Districts) – *pro hac vice*
- U.S. District Court of Indiana (Southern) – *pro hac vice*
- U.S. District Courts of Florida (Middle, Southern) – *pro hac vice*

## ACTIVITIES

- National Association of College and University Attorneys
  - *Annual Program Committee*
  - *Publication Committee*
  - *NACUANotes Editorial Board*
- New York State Bar Association
  - *Health Law Section - Executive Committee*
  - *Past Chair, Fraud, Abuse and Compliance Committee*
- Monroe County Bar Association
  - *Academy of Law*
- American Health Lawyers Association

## PRESENTATIONS & PUBLICATIONS

- "Privilege and Confidentiality Considerations for Campus Counsel." National Association of College and University Attorneys Annual Meeting.
- "Strategies for Minimizing Whistleblower Risk." University of Rochester Annual Compliance Conference.
- "Campus Safety in the Era of Mass Shootings." American Council on Education.
- "Handling the Difficult Title IX Matter." NACUA Annual Meeting.
- Selected Topics in Legal Ethics and Civility, Cornell Law School.
- "Compliance Considerations for Internal Counsel." New York State Bar Association Annual Meeting, Health Law Section.
- "Battle of the Sexes? Gender Equity in Pay and Benefits." NACUA General Counsel Institute.
- "Privilege Considerations in Internal Investigations." Association of Corporate Counsel of America.
- Selected E-Discovery Topics, NACUA General Counsel Institute.
- Governance and Departmental Management Training, Association of Independent Colleges Regional Meeting.
- "We Billed for What? Handling the Voluntary Disclosure." Healthcare Financial Management Association.
- "Litigation Landmines." Western New York Higher Education Roundtable.
- "Compliance Basics." Healthcare Financial Management Association Regional Meeting.
- Discrimination, Harassment, and Retaliation Training, Numerous Firm Clients.
- He has authored several journal articles, in publications such as the *Journal of College and University Law*, the New York State Bar Association's *Health Care Journal*, and selected industry group publications.

## RECOGNITION

- Selected to *The Best Lawyers in America*®, since 1995
  - Commercial Litigation
  - Education Law
  - Health Care Law (2014 "Lawyer of the Year" Rochester, NY)
  - Litigation - Health Care

- Selected to *New York Super Lawyers*® (Upstate Edition), every year
- Martindale-Hubbell AV® Rating
- Recipient of the inaugural United Educators "Distinguished Counsel Award"
- Mediation Panel, Western District of New York

## COMMUNITY

- McQuaid Jesuit High School
  - *Vice Chair of the Board*
  - *Executive Committee Member*
  - *Chair, Governance Committee*
- Our Lady of Mercy High School
  - *Capital Campaign Steering Committee*
  - *Gala Chair*
- Kirkhaven Nursing Home
  - *Former Board Chair*
- Seniorsfirst Communities
  - *Former Board Chair*
- Community Management Services of Western New York
  - *Former Board Chair*
- Union College
  - *Alumni Affairs*
- William & Mary Law School
  - *Alumni Counselor*

## TESTIMONIALS

- "Ward Greenberg Heller & Reidy attorney **Tom D'Antonio** has been our go-to attorney for false claims act defense work for many years. Tom is a lawyer's lawyer. He is very smart and extremely practical. He has produced outstanding results on the matters we have entrusted to his care. I would recommend him without hesitation to anyone faced with the defense of any healthcare related matter, particularly if the matter relates to a *qui tam* or government investigation."
  - *Edward Case, University of Rochester*

- "Ward Greenberg Heller & Reidy's **Tom D'Antonio** is an outstanding attorney whose calm and practical advice has greatly benefited our organization."  
– *Eric Farrell, St. Peter's Health Partners*
- "**Tom D'Antonio** is a truly outstanding lawyer: always knowledgeable, well prepared, thoughtful, creative, and willing to give clients all the time they need. He will defend his clients to the utmost and yet remains civil and respectful to all participants in the legal process. He has unquestioned integrity and is widely respected for his legal talents, his integrity, and his decency. With respect to the field of education law, Tom is a recognized leader in the field and knows the law from top to bottom."  
– *Nelson E. Roth, Cornell University*
- "**Tom D'Antonio** is an excellent attorney, who provides us with timely and practical legal advice. He understands the College's culture and operations and eases our stress during tense situations with his wit and humor."  
– *Anonymous, U.S. News – Best Lawyers® "Best Law Firms"*
- "**Tom D'Antonio** excels in providing strategic advice and is an outstanding litigator."  
– *Anonymous, U.S. News – Best Lawyers® "Best Law Firms"*