HOLTZMAN VOGEL

New York, NY Office
646-792-9288
ashapiro@holtzmanvogel.com

Related Practice Areas

- Antisemitism and Anti-Terrorism
- Appellate
- Commercial Litigation
- Constitutional Law
- Faith-Based Organizations
- Government and Congressional Investigations
- Land Use
- State Attorneys General

Akiva Shapiro

Partner

Akiva Shapiro is a litigation partner at Holtzman Vogel, New York office managing partner, and Chair of the New York Administrative Law and Regulatory Litigation practice group. Akiva's practice focuses on a broad range of high-stakes constitutional, administrative, commercial, and appellate litigation matters. He is regularly engaged in front of New York's trial courts, federal and state courts of appeal, and the U.S. Supreme Court.

Prior to joining the firm, Akiva was a partner and practice group chair at an AmLaw 100 firm, where he was named by *The Legal 500* as a "key lawyer" in its commercial disputes practice.

Akiva was included in *City & State New York's* inaugural 2024 "40 In Their 40s list," which featured New York's 40-something power players. In 2023, he was presented with the American Association of Jewish Lawyers and Jurists' Pursuit of Justice Award, which is given to "distinguished jurists and attorneys who exemplify the Biblical dictate, 'Justice, justice shall you pursue.'"

Akiva was named Litigator of the Week by *The American Lawyer* in August 2021 for what it called an "extraordinary SCOTUS win for New York landlords," obtaining an emergency injunction from the Court on due process grounds in *Chrysafis v. Marks*. He was named a runner-up Litigator of the Week by *The American Lawyer* in November 2020 for "two big wins . . . scored late on the Wednesday before Thanksgiving," including obtaining an emergency injunction from the U.S. Supreme Court in *The Roman Catholic Diocese of Brooklyn, New York v. Cuomo*, a landmark religious liberties decision. Referencing both emergency decisions, *The American Lawyer* recognized Akiva's "knack for getting the attention of the U.S. Supreme Court. Quickly." Akiva has been named a runner-up Litigator of the Week or received a Litigator of the Week shout out another half-dozen times for trial and appellate wins in the constitutional, administrative law/CPLR Article 78, commercial litigation, defamation, and religious liberties spaces. *City & State* has described him as "one of the nation's leading defenders of religious liberties."

Akiva has been named a *Benchmark Litigation* "Future Star" and a *Super Lawyers* New York Metro "Rising Star" in Constitutional Law multiple times, and one of *The Jewish Week's* "36 under 36" up-and-coming leaders in the Jewish community for his work on a number of high-profile pro bono cases. He is a member of the American Association of Jewish Lawyers and Jurist's Board of Governors, and is a former Co-Chair of its First Amendment/Religious Liberties Committee. He is also a member of the Organization for the Resolution of Agunot's Get Legal Defense Network and the American Jewish Committee's Legal Committee, and he co-founded and co-chaired the first Sabbath Observant Affinity Group in BigLaw, as profiled in *Law360*. Akiva has been on multiple Frank Wheat Award-nominated teams for leadership and initiative in pro bono work, and for obtaining significant results for pro bono clients, and was part of the that received the Jewish National Fund Presidential Award.

Akiva has published articles on constitutional and litigation issues in *The Wall Street Journal*, *The New York Law Journal*, *Law360*, *Westlaw*, *JURIST*, *Tablet Magazine*, and other periodicals, and he has been profiled or quoted on a variety of legal topics in newspapers ranging from *Reuters* to *Crain's New York Business*

to the *New York Daily News*. He regularly gives Continuing Legal Education classes for other lawyers, including on constitutional and complex commercial litigation strategy, Article 78 proceedings, brief writing, and deposition techniques.

Education

- Columbia Law School, J.D.
  - *Columbia Law Review*, Senior Editor
  - Harlan Fiske Stone Scholar
  - Semifinalist in the Harlan Fiske Stone Honors Moot Court competition
- Yale University, M.A., Religious Studies
  - *Yale Journal of Law and the Humanities,* Member
- Columbia University, B.A., History

Bar & Court Admissions

- New York Bar
- U.S. Court of Appeals for the 2nd, 3rd, 5th and 9th Circuits
- U.S. District Court, Eastern District of NY
- U.S. District Court, Southern District of NY
- Supreme Court of the United States

Clerkship/Government Experience

- Research Assistant, Judge Debra Livingston of the U.S. Court of Appeals for the Second Circuit

Representative Matters

Representative Litigation Involving Government Entities and Constitutional Issues

Administrative challenges and public policy disputes:

- Representing the historic Forest Hills Stadium in Queens in a series of high-profile lawsuits involving challenges to the concerts put on at the stadium and the stadium owner's breach of contract, breach of fiduciary duty, and tort claims against objectors. Rulings in one of the lawsuits—denying a preliminary injunction to a group of plaintiffs and granting the stadium owner's motion to dismiss, respectively—were named Decision of the Day by the *New York Law Journal*.
- Representing dissenting trustees and community groups in a multiple challenges to the proposed takeover of the private, non-profit Maimonides Medical Center by New York City's public hospital system.
- Represented plan participants in high-profile breach of fiduciary duty challenge to the decision of a number of New York City public pension funds to divest billions of dollars from fossil fuel-related companies.
- Won CPLR Article 78 victory holding that the Town of East Hampton's plan to close its airport was arbitrary and capricious for failure to conduct required environmental reviews. Also obtained monetary sanctions award against the Town for violating a temporary restraining order. Akiva was recognized with a Litigator of the Week shout out by *The American Lawyer* for this win.
- Prevailed in proving, following evidentiary hearing, that the U.S. Department of Justice Executive Office for Immigration Review had violated a settlement agreement providing for remote hearings for immigration

lawyers. Obtained prevailing party attorneys' fees award. Akiva was recognized with a Litigator of the Week shout out by *The American Lawyer* for this win.

Property rights litigation:

- Obtained emergency injunction from the U.S. Supreme Court of New York State's COVID-19 eviction moratorium law. The Court held that the moratorium scheme violated "the Court's longstanding teaching that ordinarily 'no man can be a judge in his own case' consistent with the Due Process Clause." According to data published by *Reuters*, the decision marked the first time the Supreme Court had granted an emergency injunction to private litigants outside the religious liberties context since the inception of the pandemic, after nearly 100 prior applications had been denied. After the decision, the district court awarded prevailing party attorneys' fees to Akiva's clients. Akiva was awarded Litigator of the Week by *The American Lawyer* for this win.
- Mounted a federal constitutional challenge to New York State's recent amendments to its rent regulation laws, asserting Taking Clause, Due Process, and Contracts Clause claims, among others, on behalf of a number of small apartment building owners.

First Amendment speech and assembly litigation:

- Represented good government groups in successful First Amendment challenge to New York State's sweeping, first-in-the-nation requirement that large swaths of non-profit organizations publicly disclose essentially all of their donors. The court granted summary judgment for Citizens Union and the other Plaintiffs in full, striking the challenged provisions as "invalid on their face" under the First Amendment. After the decision, the government agreed to pay attorneys' fees and to waive any appeal of the district court's decision.
- Representing newspaper and various community organizations in landmark litigation under New Jersey's recently enacted anti-SLAPP law, resulting in an appellate reversal broadly construing the law in favor of speech protections and the first attorney's fees award under the law for Akiva's clients. Akiva was recognized with a Litigator of the Week shout out by *The American Lawyer* for this win.
- Represented non-profit organization NYCLASS in successful appeal, on First Amendment grounds, narrowing injunction that had significantly restricted public protests near Central Park.

Religious liberties litigation:

- In what has been called "one of the most significant religion cases in the past 30 years," obtained an emergency injunction from the U.S. Supreme Court on behalf of The Catholic Diocese of Brooklyn, New York, blocking enforcement of Governor Cuomo's executive order restricting house of worship attendance during the Covid-19 pandemic. *The Wall Street Journal* editorial page described the decision with one word: "Wow." Akiva was awarded runner-up Litigator of the Week by *The American Lawyer* for this victory.
- Represented elite marathoner Beatie Deutsch in her groundbreaking effort to have the Tokyo 2021 Olympics Women's Marathon moved from its scheduled date on the Jewish Sabbath so she can compete in accordance with her religious beliefs. Akiva's op-ed on the representation, *A Tokyo Sequel to 'Chariots of Fire,'* was published in the *Wall Street Journal* in October 2020.

- Successfully represented synagogue in suit against a local zoning board for violating client's First Amendment, Due Process, and Religious Land Use and Institutionalized Persons Act rights by imposing unreasonable and oppressive conditions on the synagogue's use of its property for religious services, study, and activities. Argued summary judgment motion and "prerogative writs" trial and, while appeal of those decisions was pending, negotiated a favorable settlement that removed essentially all of the challenged conditions and restrictions.
- Represented the Louis D. Brandeis Center for Human Rights Under Law and Hadassah in a series of amicus briefs successfully defending the constitutionality of state laws restricting state contractors from engaging in discriminatory boycott, divestment, or sanction actions against Israeli companies.

Challenges to enforcement actions:

- **SEC enforcement defense:** Successfully defended Lynn Tilton and her Patriarch entities against SEC fraud charges in which the SEC sought disgorgement of more than $200 million from Ms. Tilton—the largest disgorgement award ever sought by the SEC from an individual—and Ms. Tilton's debarment for life as an investment advisor. After a multi-week trial, the SEC Administrative Law Judge overseeing the case issued a landmark 57-page decision dismissing all of the SEC's charges in full, and the SEC chose not to appeal.
- **NYAG enforcement defense:** Defended DraftKings against State Attorney General litigations over the legality of daily fantasy sports in various states. In the New York action, obtained a stay pending appeal of an injunction that would have barred DraftKings from operating in the state and, while the appeal was pending, the case was resolved favorably through state legislation legalizing daily fantasy sports in New York.
- **Overturning NYPD policy:** After the City of New York began arresting entertainment venue's ticket agents on the grounds that they were selling "goods or services" on the sidewalk without a "general vendor" license, obtained a unanimous reversal from New York's Appellate Division, First Department, invalidating the policy and legal interpretation underlying the arrests.
- **Regulatory challenges:** When the New York State Department of Financial Services adopted sweeping new statewide restrictions on traditional title industry marketing and fee practices, Akiva and his colleagues had to go up and down the state court system twice on behalf of the New York State Land Title Association, in the process successfully blocking the regulations' implementation for two years, getting the new regulations struck down by a trial court in August 2019 as unconstitutional on Due Process and First Amendment grounds—for which Akiva was named a runner-up Litigator of the Week by *The American Lawyer*—and eventually resulting in the permanent invalidation of key portions of the regulations.

Representative Commercial Litigation Matters

Civil RICO and Antiterrorism:

- Representing U.S. citizen Sara Saleem in federal litigation under the Antiterrorism Act and Torture Victims Protection Act following her kidnapping and torture in Iraq by recognized terrorist groups Asa'ib Ahl Al-Haq and Hezbollah, resulting in the entry of default judgments against these groups and ongoing litigation against other defendants, including former Iraqi Prime Minister Nouri Al-Maliki and the current head of Iraq's Supreme Judicial Council.

- Filed $1 billion civil RICO, breach of contract, fraud, and breach of fiduciary duty action on behalf of a major international insurer, defeated motion to dismiss the case, and at the same time obtained dismissal of the adverse party's $150 million breach of contract claim. After expedited discovery, successfully moved for summary judgment on our client's breach of contract claim, and participated in a 25-day bench trial on our client's RICO and other remaining claims that resulted, post-trial, in a confidential settlement.
- Obtained dismissal with prejudice on the pleadings of a $1 billion civil RICO suit against private equity investor Lynn Tilton and her Patriarch entities filed in the Southern District of New York.
- Litigated complex civil RICO, breach of contract, fraud, and federal trade secrets case on behalf of West Palm Beach developer who alleged that its multi-hundred-million dollar project had been stolen from it by a rival developer and co-conspirators. After the claims substantially survived dismissal and clients obtained favorable discovery rulings, the parties entered into a confidential settlement.
- Brought civil RICO action on behalf of successful Chinese hedge fund manager and investor who was targeted for retaliation and "Fox Hunt" after he refused to cooperate in a scheme to steal American semiconductor technology.

Defamation defense:

- Represented Madison Square Garden in successfully defeating all claims brought by former Knicks star Charles Oakley arising out of an incident in which Oakley was removed from the Garden during a Knicks game. Akiva was awarded runner-up Litigator of the Week by *The American Lawyer* for this win.
- Won summary judgment ruling dismissing all claims asserted against religious elementary school—including defamation, breach of contract, and employment discrimination claims—after the school terminated its employment relationship with a teacher whose conduct was determined not to be consistent with the school's standards, and communicated its decision to the school community. The trial court determined that the claims were barred by the ministerial exception and that adjudicating them would excessively entangle the court in religious doctrine, and praised Akiva as "[i]ncredibly eloquent in the field." Obtained precedential affirmance on appeal from the New Jersey Appellate Division, followed by an affirmance by the New Jersey Supreme Court on ministerial exception grounds. Akiva was recognized with a Litigator of the Week shout out by *The American Lawyer* for the Appellate Division win.
- Won dismissal on the pleadings of defamation suit brought against a longtime agunah ("chained wife" denied a religious Jewish divorce) for her advocacy work on behalf of herself and fellow agunahs.

Contract disputes:

- Defeated attempt to confirm a sham $18 billion Egyptian arbitral award in U.S. federal court. The trial court found that there was no agreement to arbitrate between the parties and that numerous procedural infirmities independently precluded confirmation of the award. The Ninth Circuit affirmed that dismissal in a unanimous opinion, and, following further proceedings, imposed sanctions against opposing counsel for submitting a fabricated article to the court.
- Helped achieve a sweeping victory in bankruptcy court validating a market-leading transaction on behalf of an ad hoc group of lenders that provided

Serta Simmons Bedding with new liquidity and capital structure relief in order to ensure its survival during the early days of the COVID-19 pandemic. The litigation team, including Akiva, were awarded runner-up Litigator of the Week by *The American Lawyer*.

- Successfully prosecuted breach of contract and business tort claims in front of AAA arbitration panel. After the opposing party refused to pay the award, brought a successful action in federal court for confirmation and obtained payment in full.
- Represented Dubai-based company in successfully proving authenticity of operating contract governing its commercial relationship with a New York supplier, after the supplier falsely alleged that the contract was forged. On the eve of a federal jury trial on the authenticity of the agreement, and with the testimony of a handwriting expert and ink chemist dooming the forgery allegation, the other side capitulated, stipulating to the authenticity of the agreement and to immediate arbitration of the merits of the contract dispute.

Securities litigation:

- Obtained complete dismissal on the pleadings of putative securities class action brought against insurance company and certain of its officers and directors under Sections 11 and 15 of the Securities Act and sections 10(b) and 20(a) of the Exchange Act. The suit followed the company's restatement of certain line items in its prior financial statements.
- Representing Brazilian mining company in significant securities class action and opt-out litigation.

Representative Litigation in Front of the U.S. Supreme Court

- *Chrysafis v. Marks*: Representing small landlords and the Rent Stabilization Association in obtaining groundbreaking injunction protecting due process rights, discussed in more detail above.
- *The Catholic Diocese of Brooklyn, New York v. Cuomo*: Represented Brooklyn Diocese in obtaining landmark injunction protecting religious liberties, discussed in more detail above.
- *Federal Republic of Germany v. Philipp* and *Republic of Hungary v. Simon* : Representing a bi-partisan group of Members of the House of Representatives in support of Holocaust survivors and their heirs in two cases that will determine whether foreign sovereigns and their instrumentalities can be held accountable in United States courts for the genocidal seizure of property during the Holocaust, consistent with Congress's instructions. Akiva's op-ed on the case, *Holocaust Survivors Deserve Their Day in Court*, was published in the *Wall Street Journal* in December 2020.
- *Padilla v. Kentucky*: Helped secure landmark decision at the United States Supreme Court holding that criminal defense attorneys have an obligation to advise noncitizen clients about the deportation risks of a guilty plea, and that an attorney who fails to do so violates the Sixth Amendment's guarantee of effective assistance of counsel. The majority opinion quoted the amicus brief Akiva co-authored on behalf of legal ethics, criminal procedure, and criminal law professors for the critical proposition that "authorities of every stripe . . . universally require defense attorneys to advise as to the risk of deportation consequences for non-citizen clients."
- *Zivotofsky* cases: Represented U.S. Senators, the Chairman and Ranking Member of the House Foreign Affairs Committee, and other Members of Congress as amici in a landmark separation of powers case brought to protect the role of Congress in foreign affairs. The initial Supreme Court

case, *Zivotofsky v. Clinton*, resulted in an 8-1 win significantly narrowing the political question doctrine and holding that the federal courts have the power to evaluate a constitutional challenge to a statute, even if the statute implicates foreign affairs. The majority opinion specifically noted the involvement of members of Congress as amici in the case. After the case was remanded for a decision on the question of which branch of government controls the recognition power, and the circuit court decided the case in favor of the Executive, filed a successful amicus brief in support of certiorari, followed by a merits-stage amicus brief in *Zivotofsky v. Kerry* . Although the decision came down in the Executive's favor on the narrow recognition power issue, the majority opinion expressly affirmed the robust role of Congress in foreign affairs, consistent with the arguments made in our congressional amicus brief. Akiva's op-ed on the case, *Is Jerusalem in Israel? Ask the Supreme Court*, was published in the *Wall Street Journal* in October 2014.

- *Vartelas v. Holder*: Helped secure an important immigration rights victory from the U.S. Supreme Court preserving travel rights for lawful permanent resident aliens. The majority opinion adopted in significant respects the arguments advanced in an amicus brief filed on behalf of the National Association of Criminal Defense Lawyers and other national criminal defense and immigration rights organizations in holding that a provision of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) barring re-entry to the United States by certain lawful resident aliens who made "innocent, casual, and brief" trips abroad did not apply to conduct that predated the Act. Also provided advice relating to Mr. Vartelas's successful petition for certiorari.

News & Insights

- 'We're Recruiting': Amid DOJ Hires, Holtzman Vogel Looks to Grow
- Orthodox Union Advocacy Center Attorneys Conference
- Gibson Dunn Regulatory Chair Joins Holtzman Vogel As New York Managing Partner
- Holtzman Vogel Adds Akiva Shapiro as New York Managing Partner, Bolstering High-Stakes Litigation and Constitutional Law Practice in Northeast
- Akiva Shapiro Profiled by Law360; Joins Holtzman Vogel to Lead the New York Office

Awards and Honors

- *City & State New York's* "40 In Their 40s" List (2024)
- American Association of Jewish Lawyers and Jurists' Pursuit of Justice Award (2023)
- Litigator of the Week, *The American Lawyer* (August 2021)
- *Benchmark Litigation* "Future Star"
- *Super Lawyers* New York Metro "Rising Star" in Constitutional Law
- *The Jewish Week's* "36 under 36" up-and-coming leaders in the Jewish community

Community Involvement

- American Association of Jewish Lawyers and Jurist's Board of Governors, Member
  - Former Co-Chair of First Amendment/Religious Liberties Committee
- Organization for the Resolution of Agunot's Get Legal Defense Network, Member

- American Jewish Committee's Legal Committee, Member