

David M. Wirtz

Shareholder

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Focus Areas

Litigation and Trials
Discrimination and Harassment
Policies, Procedures and Handbooks
Hiring, Performance Management and Termination
Labor Management Relations

Overview

David M. Wirtz has represented employers exclusively for over 30 years, with an emphasis on:

- Litigation prevention / employment law counseling
- Discrimination litigation
- Class action defense – Fair Labor Standards Act, systemic discrimination
- ERISA litigation defense
- Arbitrations, mediations, and other ADR
- Collective bargaining
- Employment and separation agreements
- Human resources policies and handbooks

David provides 24/7 service and pragmatic advice helping managers, human resources professionals and in-house employment counsel with decisions concerning hiring, firing, promotions, compensation, and leaves. As a trial lawyer, David has successfully defended scores of individual, class and collective actions and achieved multiple defense verdicts in state and federal courts involving alleged discrimination (age, disability, race, national origin, gender, harassment, retaliation), covenants, wage & hour violations, negligent hiring, negligent supervision, negligent retention, breach of contract, and negligent and intentional infliction of emotional distress. He has successfully defended his clients in hundreds of arbitration proceedings.

David works with a wide range of clients in:

- Retailing
- Insurance
- Financial services
- Hospitality
- Healthcare and medical supplies
- Information technology
- Property management
- Finance
- Construction
- Law firms
- Museums and foundations
- Schools
- Municipalities and special districts

David is a skilled writer and speaker, and his articles on topics ranging from the history of restrictive covenants to retaliation claims have appeared in numerous legal publications. He has also appeared regularly as an expert commentator on employment-related issues for local television and radio stations, and he frequently lectures to other employment attorneys and in-house counsel. Additionally, David has taught as an adjunct professor at Cardozo Law School and as a guest lecturer at the Columbia Business School.

Professional and Community Affiliations

- Member, Labor and Employment Law Section, American Bar Association
- Member, Labor and Employment Law Section Committee on Ethics and Professional Responsibility, New York State Bar Association
- Member, Committee on Professional Ethics, New York County Lawyers Association

Recognition

- Awarded, AV® Preeminent Peer Review Rating, *Martindale-Hubbell*, 1996-2021
- Named, New York Top Rated Lawyer, *New York Law Journal and New York Magazine*, 2023
- Named, Stand-Out Lawyers, *Thomson-Reuters*, 2022
- Named, Top Rated Lawyer® - Labor & Employment Law, *The American Lawyer & Martindale-Hubbell™*, 2013
- Empire State Counsel Honoree for Pro Bono Activities

Education

J.D., Cornell University Law School, 1974

B.A., Johns Hopkins University, *With Honors*

Bar Admissions

New York

Courts

U.S. Supreme Court

U.S. Court of Appeals, 2nd Circuit

U.S. District Court, Eastern District of New York

U.S. District Court, Southern District of New York

Publications & Press

#MeToo: In Defense of Nondisclosure Agreements

Littler Insight

February 26, 2020

Has #MeToo Created a New Claim of Male-Bias Discrimination?

Littler Insight

October 21, 2019

Employers Face Laws Forbidding Salary History Queries

Business Insurance

November 28, 2017

Big Apple Salary Inquiry Ban a New Obstacle for Employers

Bloomberg BNA

July 11, 2017

New Rules Applicable to NYC's Freelance Isn't Free Act Prevents Covered Employers from Utilizing Arbitration Provisions and Class Action Waivers

Littler ASAP

July 5, 2017

Will Pay History Bans Complicate Hiring Practices?

Bloomberg BNA

June 12, 2017

New York City Set to Ban Inquiries About Salary History

Littler ASAP

April 14, 2017

New York City Agencies Are Prohibited From Making Pay History Inquiries – At Least For Now

Littler ASAP

November 22, 2016

New York City to Pass Protections for Freelance Workers

Littler ASAP

November 7, 2016

Back and Front Pay Under Title VII and State, City Laws: for Judge or Jury?

New York Law Journal

September 30, 2016

Certain Large Retailers and Food Service Employers in NYC Must Enter Labor Peace Agreements under New Executive Order

Littler ASAP

August 5, 2016

NYC Mayor's Order Aids Union Organizing of Retail Workers

Bloomberg BNA Daily Labor Report

July 22, 2016

New York City Expands Law Governing Displaced Building Service Workers

Littler ASAP

July 15, 2016

Law Firms Must Address Changing Employment Realities

New York Law Journal

October 19, 2015

New York City Law Provides Reasonable Accommodation for Pregnancy, Childbirth, and Related Conditions

Littler Insight

October 8, 2013

Amid turmoil, Wyckoff Heights strikes deal with nurses

Crain's New York Health Pulse

January 6, 2012

Annual Evaluation Systems and Malpractice

Law360.com

May 10, 2010

Pandemic Preparation for New York Workplaces

New York Law Journal

April 29, 2009

Another New Form of Protected Activity- Mandatory Leave Time to Donate Blood

Littler Insight

December 11, 2007

Speaking Engagements

Yet More Major New Changes in NY State and City Employment Law?!?

March 15, 2023

When Does Tough Talk Rise to an Ethical Violation or Even Extortion?

October 29, 2021

Basic Lessons on Ethics and Civility 2019

New York State Bar Association, Long Island, NY

April 12, 2019

Basic Lessons on Ethics and Civility 2018

New York State Bar Association, Long Island, NY

April 13, 2018

Exploring Complex Accommodation and Leave Issues in the Workplace

New York, NY

June 28, 2017

Moving Through the Fog: Handling Complex Issues in Workplace Accommodations Involving "Invisible" Disabilities, Gender Identity and Religious Preferences

May 12, 2017

Ethical Considerations Applicable to Settlement Negotiations and Mediation

Littler, Phoenix, AZ

May 12, 2017

Going Local: The New Frontier of Employer Regulations

National Retail Federation, Longboat Key, FL

April 27, 2017

Labor Law Nuts and Bolts

Practising Law Institute, New York, NY
April 13, 2017

Arbitration Agreements with Class Action Waivers

American Arbitration Association, New York, NY
November 17, 2016

Two Hot Topics: Mandatory Arbitration, and Separation / Confidentiality Agreements

New York, NY
November 3, 2016

2015 Tri-State Employer Conference

New York, NY
November 5, 2015

Basic Lessons on Ethics and Civility 2015

New York State Bar Association, Long Island, NY
April 24, 2015

Annual NY Legal Update: The Top Employment and Labor Issues Affecting New York Employers

New York, NY
October 16, 2014

Ethical Considerations Applicable to Settlement Negotiations and Mediation

Littler Mendelson, Phoenix, AZ
May 8, 2014

Mandatory Arbitration of Employment Disputes — A Littler Debate

New York, NY
February 25, 2014

Interns: The Next Wave of Class Action Lawsuits

New York, NY
August 6, 2013

Introductory Lessons on Ethics and Civility 2013

New York State Bar Association, Huntington, NY
April 19, 2013

Critical Employment Law Issues Facing Healthcare Employers Today

2012 Healthcare Summit - Littler Mendelson

September 12, 2012

Ethical Minefields and e-Discovery – A Perfect Match

Littler Mendelson, Scottsdale, AZ

May 10, 2012

A Look Back / A Look Forward Legal Update: The Top Employment and Labor Issues Affecting New York Employers

New York, NY

March 14, 2012

David M. Wirtz to speak at the Fall Meeting of the Labor & Employment Law Section of the New York State Bar Association

Saratoga Springs, NY

September 24, 2011

The 2011 Littler Health Care Summit

New York, NY

June 8, 2011

Introductory Lessons on Ethics and Civility

New York County Lawyers Association

January 13, 2011

Weathering the New Wave of Wage & Hour Claims and Class Actions

New York, NY

May 12, 2010

Employment Arbitration Agreements and Their Alternatives - The Ever-Changing Legal Landscape

New York, NY

October 16, 2007