



→ John E. Kiley

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Jack Kiley is a partner in the Labor & Employment Practice Group in the firm's New York office.

Areas of Practice

Jack represents management in all areas of labor and employment law, from advice and counseling to litigation to collective bargaining. His representative clients range from *Fortune* 100 corporations to not-for-profit agencies.

Jack expands the firm's capabilities in areas such as securities arbitrations, labor union organizing, contract negotiations and board proceedings. He has litigated and arbitrated numerous cases in federal and state courts and before the National Association of Securities Dealers (NASD), New York Stock Exchange (NYSE) and American Arbitration Association (AAA). He has successfully defended against organizing campaigns, represented employers in collective bargaining and defended against NLRB proceedings.

Jack also routinely partners with human resource professionals, management and in-house counsel in providing consultation, advice and training on all matters having labor and employment implications, including legal compliance issues, employee performance management, reductions-in-force and facility closings, employment contracts and union awareness.

Honors

Mr. Kiley has consistently been recognized by The Legal 500 as among the best labor lawyers in the U.S. New York Super Lawyer, *Super Lawyers*, 2010-2020

Experience

Litigation/Arbitration Experience:

Mr. Kiley has successfully litigated numerous cases before courts, arbitrators and juries, including the following more recent matters:

- Obtained summary judgment for client in case alleging ERISA violations. *Jeffrey Farkas, et al. v. Cigna Health and Life Insurance Company and Program Development Services, Inc.*, 18-cv-05232 (E.D.N.Y. June 27, 2019).
- Obtained summary judgment for social services client in case brought by former employee alleging sexual harassment, discrimination and retaliation. *Owen Marlon Alexander v. Program Development Services, Inc.*, 18-cv-01433 (E.D.N.Y. June 10, 2019).

- Lead counsel in AAA arbitration for broker-dealer defending against claims for breach of contract and Form U-5 expungement (2019).
- Lead counsel for financial services firm in AAA arbitration involving claims of discrimination and retaliation (2019).
- As lead counsel for brokerage firm, won dismissal of petition to vacate arbitration award in breach of contract, tortious interference and sexual harassment case. *Reljic v. Tullett Prebon Fin. Servs., LLC*, No. 650092/2017, 2017 N.Y. Slip. Op. 31463(U) (N.Y. Sup. Ct. July 10, 2017). Successfully argued appeal to NY Supreme Court Appellate Division, 1st Dept. *Matter of Reljic v Tullett Prebon Fin. Servs., LLC*, 169 A.D.3d 532 (N.Y. App. Div. 1st Dep't 2019).
- Lead counsel for brokerage firm in connection with wage and hour and breach of contract claims in arbitration hearings before FINRA (2018).
- As lead counsel representing brokerage firm in FINRA arbitration, won \$9.1 million in case involving claims and counterclaims for breach of contract, tortious interference, hostile work environment and retaliation (2018).
- Lead counsel for client in 2 ½ week jury trial in case alleging breach of contract and related claims by former employee. Complete jury verdict for defendant. Affirmed by Mass. App. Ct. and Supreme Judicial Court. *Kern v. Income Research & Mgmt.*, 90 Mass. App. Ct. 1113 (2016), *Kern v. Income Research & Mgmt.*, 476 Mass. 1114 (Mass. Mar. 29, 2017).
- Obtained summary judgment for health care client in case brought by former employee alleging gender discrimination. *Radler v. Catholic Health System of Long Island, Inc.*, No. 601596/12, 2014 WL 12639386 (N.Y. Sup. Ct. Sept. 16, 2014). Won appeal to NY Supreme Court, 2nd Dept. *Radler v. Catholic Health System of Long Island, Inc.*, 144 A.D.3d 781 (N.Y. App. Div. 2d Dep't 2016).
- Lead counsel for financial services firm in FINRA arbitration hearing. Won complete dismissal of wage, wrongful termination, retaliation and defamation claims (2016).
- Lead counsel for financial services firm in AAA arbitration hearing. Won complete dismissal of age discrimination claims (2016).
- Won summary judgment for client dismissing race, gender, and national origin discrimination claims. *DiGirolamo v. MetLife Group, Inc.*, 2011 WL 2421292 (S.D.N.Y. 2011), *aff'd*, 494 Fed. Appx. 120 (2d Cir. 2012).
- Lead counsel for brokerage firm in FINRA arbitration involving claims by former employee of breach of contract. After cross-examination of claimant, he withdrew all claims (2012).

Counseling Experience:

Mr. Kiley counsels and collaborates with HR professionals, in-house counsel and management on the full array of employment issues, including:

- Negotiation of employment agreements, compliance with background check regulations and other onboarding issues
- Performance management, discipline, terminations, and reductions in force
- Negotiation of employee separation terms and agreements
- Wage and hour issues, including exempt/non-exempt analysis
- Compliance with federal, state and local laws governing disability and other leaves of absence

- Conducting employee and supervisory training on sexual harassment, union avoidance, performance management and many other employment topics
- Drafting and updating employee handbooks and other employment policies
- Conducting pay equity analyses

Investigations Experience:

Mr. Kiley has conducted numerous internal investigations for clients in the financial services, retail, social services, healthcare and other industries and issued investigative reports that clients have relied upon to make employment decisions and defend against claims. A sampling of these include investigations into allegations of:

- Sexual harassment of a subordinate by an executive of a retail company
- Neglect of developmentally disabled individuals receiving services from a social services agency in violation of NYS regulations concerning the care of such individuals
- Abusive behavior by an executive of a publicly traded financial services company in violation of the company's internal policies
- Sexual assault by an employee of a co-worker following a company-sponsored event
- Unequal compensation of women at a publicly traded retail company
- Inadequate access to wheelchair bound patients of hospital's radiological services
- Sexual harassment of a male employee by his female co-workers
- Theft of funds by the chief financial officer of a non-profit social services agency
- Numerous other investigations involving allegations of harassment, discrimination, retaliation, and other forms of misconduct

Traditional Labor Experience:

Mr. Kiley has advised clients on union related matters in wide variety of industries, including healthcare, social services, hospitality, retail, energy, construction, transportation, financial services and entertainment. These matters have involved:

- Representing clients in dozens of union arbitration hearings
- Leading negotiations for clients in dozens of collective bargaining negotiations with 1199, CWA UFT, Teamsters, CSEA and other unions
- Advising clients in numerous organizing campaigns
- Representing clients in NLRB hearings

Articles

- The Underutilization of "Racketeering" Claims in Restrictive Covenant Cases
New York Law Journal, 10.27.2020
- "Recent Decisions Clarify Scope of Third-Party Retaliation Doctrine," *New York Law Journal*, October 21, 2013

Labor & Employment Law Blog Posts

- "Picking Up the "Key to NYC": New Vaccination Regulations Now Effective for New York City Employers," August 18, 2021

Media Mentions

How One Company (With Help From Sheppard Mullin) Has Raked in \$145 Million from Enforcing Its Employment Agreements

The American Lawyer, 07.26.2017

Money Brokers Less Bullish on Talent Poaching After \$9M Verdict?

Bloomberg, 12.21.2016

Speaking Engagements

"Respect In The Workplace – A Blueprint for Supervisors," New York, New York, March 11, 2019

"Leading Court Decisions and Key Legislative Developments in 2018," Sheppard Mullin's Labor & Employment Law Update," New York, New York, October 30, 2018

"Board Engagement: Are You Helping Drive the Mission?," Poughkeepsie, New York, October 11, 2018

"Board Responsibilities in the Non-Profit World," Mount Kisco, New York, May 11, 2018

"Employment Law Essentials," New York Head Start Association Annual Professional Training Conference, White Plains, New York, May 8, 2018

"Employment Law 101 – Managing Within the Law: Policies and Practices Review for Managers," Melville, New York, May 2, 2018

"Board Room Bloopers: Lessons Learned from an Outside Investigation," New York Alliance for Inclusion & Innovation, Lake George, New York, April 12, 2018

"Ethics in the Workplace," New York, New York, November 7, 2017

"Paid Family Leave and Other Time-Off Obligations," New York State Association of Community and Residential Agencies, Bolton Landing, New York, October 26, 2017

"Exempt Employees: Avoiding the Pitfalls of Misclassification," New York State Association of Community and Residential Agencies, Bolton Landing, New York, April 6, 2017

"Preventing Discrimination, Harassment, and Retaliation In The Workplace," New York, New York, November 17, 2016

"Self-Direction: Labor and Employment Law Challenges," New York State Association of Community and Residential Agencies, Albany, New York, October 24, 2016

"Hot Topics in Labor & Employment Law," New York Association of Emerging and Multicultural Agencies, Bronx, New York, September 28, 2016

“Ten Commandments of Wage & Hour Law,” Sheppard Mullin’s Labor and Employment Law Update, New York, New York, June 22, 2016

“A New Era For FLSA Exemptions (Maybe): The Department of Labor’s Proposed Exemption Changes to the Fair Labor Standards Act and What They Mean For You,” New York State Association of Community and Residential Agencies Leadership Conference, Saratoga, New York, December 3, 2015

“Labor Relations in the Non-Profit World,” Garden City, New York, June 24, 2015

“Closures and Mergers: Navigating the Challenges of Consolidation in the OPWDD World,” New York State Association of Community and Residential Agencies Leadership Conference, Bolton Landing, New York April 16, 2015

“Recent Developments in Employment Law,” New York, New York, January 30, 2014

“Budget Cuts and Union Cards: Organized Labor in the New DD World,” New York State Association of Community and Residential Agencies Leadership Conference, Bolton Landing, New York, April 17, 2013

Events

Sheppard Mullin’s Labor & Employment Law Spring Review
Webinar, 05.25.2021

Sheppard Mullin’s Labor & Employment Law Update - Year In Review
Webinar, 11.12.2020

Navigating COVID-19 Labor and Employment Challenges in the Workplace
Webinar, 03.19.2020

Labor & Employment Law Update - Year in Review - New York
Fall 2018
10.30.2018

Sheppard Mullin’s Spring 2016 Labor & Employment Law Update
06.22.2016

2013 New York Labor & Employment Year In Review
Grand Hyatt New York, 11.05.2013

2013 New York Labor & Employment Update
Grand Hyatt New York, 06.19.2013

Podcasts & Webinars

Labor & Employment Spring Update
05.25.2021

Sheppard Mullin's Labor & Employment Law Update - Year In Review
11.12.2020

Practices

Labor and Employment

Litigation

Labor and Employment Counseling

Labor and Employment Litigation

Labor Union Management Relations

Industries

Entertainment, Technology and Advertising

Fashion, Apparel and Beauty

Financial Services

Healthcare

Hospitality

Nonprofit

Retail

Education

J.D., Fordham University School of Law, 1989

B.A., Amherst College, 1984

Admissions

Connecticut

New York

United States Court of Appeals for the Second Circuit

United States District Court for the Southern District of New York

United States District Court for the Eastern District of New York

United States District Court for the Northern District of New York

United States District Court for the District of Connecticut