



→ Keahn N. Morris

Partner

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Keahn Morris is a partner in the Labor and Employment Practice Group in the firm's San Francisco office.

Areas of Practice

Keahn's practice encompasses labor-management relations, collective bargaining, single plaintiff and class action litigation, preventative counseling, and business acquisitions and restructuring. Keahn is an experienced trial lawyer, having represented employers in over 50 trials and arbitrations before judges, arbitrators, and various administrative agencies. Keahn's clients range from Fortune 100 companies to non-profits. He represents clients in numerous industries, including healthcare, transportation, aerospace and defense, energy, technology, the "gig" economy, media, food and beverage, hospitality, sports and entertainment venues, retail, manufacturing, construction, and cannabis.

Labor-Management Relations

Keahn has extensive experience across the entire traditional union/labor field, including collective bargaining, arbitration, unfair labor practice and representation proceedings, and litigation related to the National Labor Relations Act (NLRA) and the Railway Labor Act (RLA). He represents clients across the country in court, as well as in proceedings before the National Labor Relations Board (NLRB), the National Mediation Board (NMB), and in arbitration.

Keahn also provides employers with strategic representation related to high risk union organizing campaigns and "corporate campaigns." He has guided employers of all sizes through difficult labor relations issues involving union elections, union decertifications, lockouts, rapid response tactics to economic warfare (e.g., strikes, pickets, and boycotts), and other high pressure union events by nearly all of the major unions in the U.S., as well as many grass roots employee associations, spin-offs from the major U.S. unions, and union-backed "coalitions" and "worker centers." Keahn is an expert on secondary boycotts and has successfully sued unions on behalf of employers for engaging in illegal labor activity, including recently obtaining a decision by the D.C. Circuit Court of Appeals, which is now a leading case concerning illegal boycotts and hot cargo agreements under the NLRA. He also has extensive experience with federal and state labor injunction cases.

Employment Litigation

Keahn represents employers in employment actions before state and federal trial and appellate courts and arbitrators. He litigates disputes involving wage and hour class actions, Private Attorney Generals Act (PAGA) actions, whistleblowing, wrongful termination, discrimination, harassment, breach of contract, trade secrets, unfair competition, and related claims. Keahn represents clients before federal and state administrative

agencies, including the U.S. Department of Labor (DOL), the U.S. Equal Employment Opportunity Commission (EEOC), the California Civil Rights Department/the Department of Fair Employment and Housing (DFEH), the California Labor Commissioner's Office/Division of Labor Standards Enforcement (DLSE), the California Division of Occupational Safety and Health (Cal/OSHA), and other state and municipal human rights commissions and labor agencies.

Business Acquisitions and Restructuring

Keahn provides strategic advice on labor and employment-related issues that arise in the context of corporate transactions, including mergers and acquisitions, bankruptcy, downsizing, reorganization, relocation, and turn-around work. He regularly works with corporate clients and private equity firms to guide them in structuring corporate transactions to minimize risk and maximize the value and success of those transactions from a labor, employment, and employee benefits perspective. This includes transaction planning, due diligence, deal documentation, re-negotiation of labor agreements, and pre- and post-closing integration activities.

Preventative Counseling and Investigations

Keahn is a trusted advisor and regularly provides strategic advice to corporate executives, in-house legal counsel, labor relations professionals, human resources leaders, and business associations on labor relations and employment-related risk management. He provides advice to employers on crucial labor and employment-related topics such as conducting effective workplace investigations, workforce planning, employee recruiting and hiring practices, harassment prevention and investigation, wage and hour compliance, pay equity, employee mobility, employee benefits, and employee discipline/terminations.

Keahn is published and quoted frequently on a variety of labor and employment law issues in major academic and business publications and frequently conducts national and statewide training programs.

Prior to entering private practice, Keahn interned at the NLRB's Division of Judges in San Francisco, California. In that role, he assisted NLRB judges with unfair labor practice trials throughout the Western United States. Keahn also worked as legal intern for the Honorable Charles R. Breyer of the U.S. District Court for the Northern District of California.

Honors

Northern California Rising Star, *Super Lawyers*, 2014-2020

Articles

- The National Labor Relations Act Is Likely To Preempt State & Local Cannabis Laws Requiring Employers To Enter Into & Abide By Labor Peace Agreements As A Condition Of Doing Cannabis Business
Cannabis Law Journal, 12.2020
- NLRB Memo May Void Some Union-Employer Neutrality Pacts
Law360, 09.23.2020
- Expect More Pro-Business Rulings From NLRB This Year
Law360, 01.27.2020

- New NLRB Election Rules Re-Level The Field For Employers
Law360, 12.13.2019
- NLRA May Preempt AB 5 under the Garmon doctrine
Daily Journal, 10.14.2019
- Classification Ruling Exhibits NLRB's Stance On Contractors
Law360, 09.19.2019
- NLRB Ruling Clarifies Class Waivers For Employers
Law360, 08.26.2019

Labor and Employment Law Blog Posts

- "SCOTUS Hears Oral Argument on Whether NLRA Preempts State Court Lawsuits Against Unions for Property Damage Caused During Labor Disputes," January 20, 2023
- "NLRB Provides Off-Duty Contractor Employees With Property Access to Engage in Section 7 Activity," January 4, 2023
- "NLRB Confirms a Return to Union Gerrymandered Bargaining Units," December 16, 2022
- "Caught on Video No More? NLRB General Counsel Releases Memo Urging Board to Curtail Employer Use of a Variety of Surveillance Technologies in Workplace," November 7, 2022
- "NLRB Revisits Union Dues Checkoff Rule," October 10, 2022
- "NLRB Releases Proposed Joint Employer Rule Rolling Back Trump-Era Standard," September 6, 2022
- "Union Election Petitions on the Rise, Total Number of FY21 Petitions Eclipses in First Three Quarters of FY22," July 15, 2022
- "NLRB General Counsel Seeks to Reinstate Radical Standard for Union Recognition and Restrict Employer Free Speech During Corporate Organizing Campaigns," April 18, 2022
- "NLRB General Counsel Will Ask the Board to Find That Captive Audience Meetings Violate the NLRA," April 8, 2022
- "NLRB to Decide Whether Misclassification Is Standalone Violation of the NLRA," March 31, 2022
- "NLRB General Counsel Issues Memorandum on Increased Inter-Agency Coordination, Collaboration," February 11, 2022
- "NLRB Rings in the New Year by Inviting Briefing on Multiple, Far-Reaching Standards Impacting Employers," January 19, 2022
- "NLRB Foreshadows a Return to Union Gerrymandered Bargaining Units," December 28, 2021
- "California Legislature and Governor Approves New PAGA Carve-Out," November 8, 2021
- "NLRB General Counsel Issues Memos Calling for New Harsher Penalties for Unfair Labor Practice Violations," September 22, 2021
- "NLRB General Counsel Sets an Agenda to Reverse Trump-Era Board Policy," August 19, 2021
- "Scabby Survives Another Trip to the NLRB: Board Reaffirms Rat-and-Banner Displays Targeting Neutral Businesses Are Permissible," July 26, 2021

- "SCOTUS Decision May Force Reversal of California Laws Sanctioning Union Trespass," June 25, 2021
- "New Administration, New Direction as Acting NLRB General Counsel Rescinds 10 General Counsel Memos and Reverses Course on Neutrality Pacts With Unions," February 3, 2021
- "NLRB's Division of Advice Determines Certain Workers in the Cannabis Industry Are Exempt From Federal Labor Law," January 29, 2021
- "EEOC Takes a Shot at COVID-19: Unvaccinated Employees Can be Excluded From the Workplace," December 18, 2020
- "GC Finds Merit in COVID-19 Related ULP Cases in GC Memo 20-14," September 22, 2020
- "Neutrality and Labor Peace Agreements – When Its Unlawful for an Employer to Be "Too Neutral" as to Union Organizing Under the NLRA," September 16, 2020
- "The Board Weighs In on the COVID Mail Ballot Controversy," September 1, 2020
- "Board Announces Intent to Issue New Rules Eliminating Disclosure of Certain Personal Information and Requiring Absentee Ballots for Those on Military Leave," July 29, 2020
- "Sticks and Stones...The NLRB Rethinks Its Position on Abusive Workplace Speech by Employees While They Are Engaged in Protected Concerted and Union Activities," July 23, 2020
- "NLRA "Advice" All Employers Should Consider in a COVID World," July 23, 2020
- "AFL-CIO Sues the Board Over New Rules – AGAIN," July 17, 2020
- "Will the NLRB GC's "Suggested" Manual Election Protocols Matter?," July 10, 2020
- "Board Invites Briefs and Signals a Possible Shift in Its Contract Bar Rules," July 10, 2020
- "Judge Jackson Explains the Basis for Her Invalidation of the Board's Election Regulations," June 19, 2020
- "The NLRB Reacts to Court's Eleventh-Hour Partial Injunction of the Agency's New Election Rules," June 2, 2020
- "Why, How and When Katz May "Trump" an Expired CBA When It Comes to Making Unilateral Changes – The Relationship Between *MV Transportation* and *Raytheon Network*," April 23, 2020
- "Keep a Lid on It – The Trump NLRB Reaffirms Employer Ability to Enforce Investigative Confidentiality Rules," April 22, 2020
- "Labor Issues Concerning COVID-19 and Government "Stay at Home" Orders", March 20, 2020
- "NLRB Reinstates Broad Deferral of Discrimination Cases to Arbitration, Overruling the Obama Board's 2014 Decision in *Babcock & Wilcox*," January 2, 2020
- "Employers May Now Forbid Employees Using Co. Email for Protected Concerted Activities, Forbid Employees from Discussing On-Going Workplace Investigations, and Cease Checking Off Union Dues," December 20, 2019
- "Christmas Comes Early for Employers at the NLRB – New Election Procedures That Give Employers a Greater Opportunity to Mount Legal Challenges to Election Petitions and to Effectively Campaign Against Unionization," December 13, 2019
- "AB 1291 Forces California Cannabis Companies To Sign "Labor Peace Agreements" With Unions, But Statute May be Unconstitutional," October 23, 2019
- "An Employer's Bargaining Table Complaints as to Poor Business Conditions Is Not a Claim of Poverty Entitling a Union to Business Sensitive Information," September 16, 2019

- "More Good News From The Board: NLRB Scraps The Clear And Unmistakable Waiver Standard For The Contract Coverage Test When Deciding Unilateral Change Cases," September 11, 2019
- "Employers *May Not* Have To Retain Racists, Sexists and Belligerently Disobedient Employees After All-The NLRB Appears Ready To Rethink Its Positions On Controversial Discipline-Related Doctrines," September 11, 2019
- "The NLRB Nixes Union Gerrymandering And Establishes A Three Step Test For Voting Unit Determinations," September 11, 2019
- "The NLRB Rules That Employers May Bar Union Representatives From Their Property Even Though They Have Allowed Other Third Parties To Engage In Civic, Charitable Or Commercial Solicitations There," September 10, 2019
- "An Employer's Erroneous Announcement To Employees Declaring Them Independent Contractors Does Not, Standing Alone, Violate The NLRA," September 5, 2019
- "The NLRB Holds That Employers May Implement Class Waivers in Response to Class Claims and Discipline Employees Who Refuse to Sign Them," August 15, 2019
- "Breaking with Tradition, The Current NLRB is on a Rulemaking Tear: Election Procedures, Recognition Bar, and 9(a) Collective Bargaining Relationships," August 13, 2019
- "The NLRB Confirms that Intermittent Strikes in Furtherance of the Same Goal are Unprotected," August 1, 2019
- "The NLRB Just Made It A Little Easier For Employees To Get Rid Of Their Union," July 16, 2019
- "Which Are They? Independent Contractors Or Employees? Navigating The Conflicts Between State And Federal Law," July 2, 2019
- "NLRB Limits Duty to Bargain Over Disciplinary Actions," June 28, 2019
- "NLRB Limits Union Access Rights to "Public Spaces" of Employers," June 17, 2019
- "It's OK to Be Different- NLRB Rules That Union Represented Employees Are Not Entitled to Midterm Bargaining Over Same Paid Holiday Granted to Non-Represented Employees," June 6, 2019
- "The NLRB Continues To Chip Away At Individual Protected Concerted Activity," April 23, 2019
- "It's Perfectly Clear Once Again— NLRB Limits "Perfectly Clear" Successor Exception," April 9, 2019
- "NLRB's Division of Advice Gives "Advice" As to the Application of *Boeing* – When a Work Rule/Employment Agreement is Facially Valid Under the NLRA in Union and Union Free Workplaces," March 22, 2019
- "NLRB Issues Important Decision Regarding What Constitutes "Protected Concerted Activity" in Union and Union-Free Environments Under Federal Labor Law," January 17, 2019
- "Labor Board Back to Five Member Composition – What Obama-Era Precedent Is Next on the Chopping Block?," April 26, 2018
- "NLRB Asks D.C. Circuit to Revive Review of Joint Employer Standard Under BFI; Hy-Brand Decision Vacated Following NLRB Ethics Official's Report," March 2, 2018
- "Considering Offering Severance Pay in Exchange for Certain Post-Employment Obligations? Think Again," February 20, 2018
- "Striking A New Balance – The NLRB Abandons the Lutheran Heritage Test and Devises a New Standard for Assessing the Facial Validity of Neutral Work Rules," December 15, 2017

- "NLRB Overrules Browning-Ferris Joint Employer Standard," December 15, 2017
- "New Labor Board May Kill "Quickie Election" Rule; Requests Public RFI," December 13, 2017
- "New Labor Board GC Signals Overturning Obama-Era Rulings, But Anticipated Vacancies and Recusals Create Uncertainty," December 8, 2017
- "House Approves Save Local Business Act – Bill To Overturn Controversial Joint Employer Ruling," November 8, 2017
- "5 New Laws: California Governor Approves Employee-Friendly Laws," October 13, 2017
- "Committee Approves Save Local Business Act – Redefining Joint Employer Liability," October 5, 2017
- "Save Local Business Act Introduced in the House," September 19, 2017
- "NLRB Orders Union To Drop Unlawful Grievance, to Dismiss Suit Seeking to Compel Neutral Employers to Arbitrate Grievance and to Pay The Employers' Legal Fees and Defense Costs," June 5, 2017

Healthcare Law Blog Posts

- "California Superior Court Judge Orders Department of Public Health to Make Names and Personal Home Addresses of Approximately 180,000 Health Care Workers Available to SEIU; Union Organizing Activities Likely to Spike," May 17, 2018

Cannabis Law Blog Posts

- "SCOTUS to Consider Whether California Unconstitutionally "Takes" Private Property When It Compels Agricultural Employers to Grant Union Access to Private Property," November 19, 2020
- "AB 1291 Forces California Cannabis Companies To Sign "Labor Peace Agreements" With Unions, But Statute May be Unconstitutional," October 22, 2019

Real Estate, Land Use, & Environmental Law Blog Posts

- "Labor Development Impacting Developers, Contractors, and Landowners," May 22, 2019

Books

Employer's Guide To COVID-19 And Emerging Workplace Issues (Over 690 pages)
04.21.2020

Media Mentions

Unionization Efforts Leave Cannabis Growers Behind, But Change Could Be Coming
Cannabis Wire, 04.26.2021

Is the NLRB Embracing Common Sense?
Material Handling & Logistics, 11.25.2019

Speaking Engagements

California Association of Health Facilities – Labor and Employment Laws Impacting the Long Term Care/Skilled Nursing Industry, Webinar (January 2022)

California Association of Health Facilities – Labor & Employment Update: Part 1 and Part 2, Webinar (September 2021)

California Association of Health Facilities – Labor Law Update, Webinar (March 2021)

California Association of Health Facilities – 2021 Labor and Employment Law Update, Webinar (January 2021)

California Association of Health Facilities – Labor Law 101: Emerging Laws and Trends, The Legal Implications of COVID-19, Webinar (July 2020)

California Association of Health Facilities – Possible Reclassification of Certain Job Descriptions Due to AB 5, Webinar (July 2020)

National Retail Federation Committee on Employment Law – Millennials and Unions, San Francisco (April 2019)

California Association of Health Facilities – Union Relations in the Healthcare Industry, Palm Springs (November 2018)

Labor & Employment Law Update, Fall 2017 Seminar Series, San Francisco (October 2017)

California Labor and Employment Law Update, California Association of Health Facilities Summer Conference, Long Beach (July 2016)

Breakfast With Your Labor Lawyer, Spring 2017 Seminar Series, Palo Alto (May 2017)

California Labor and Employment Law Update, California Association of Health Facilities Spring Legislative Conference, Sacramento (March 2016)

Surveying the New Labor Law Landscape: A Rocky Road Ahead, San Francisco (May 2015)

California Labor and Employment Law Update, California Association of Health Facilities Spring Legislative Conference, Sacramento (March 2015)

Labor Roundtable: The New Joint Employer Standard Under the NLRB, San Francisco (December 2015)

Labor Seminar Breakfast Series, New Developments Under the NLRB, San Francisco (December 2014)

California Breakfast Series: California Workplace Law Update, San Francisco (December 2013)

Events

2023 New Laws & Regulatory Updates

Winter 2023

2022 California Association of Health Facilities Summer Conference

California Labor & Employment Law Update

07.10.2022

Labor Law Update
California Association of Health Facilities Spring Virtual Symposium
03.16.2021

Labor & Employment Update – What Retailers Need to Know
Webinar, 01.28.2021

2021 New Laws & Regulatory Updates
California Association of Health Facilities
Virtual, 01.21 - 01.27.2021

Emerging Labor & Employment Law
2020 CAHF Virtual Convention & Expo
11.18.2020

Labor and Employment Law Foundations & Essentials: What Is and Isn't Preempted under the National Labor Relations Act
ABA 14th Annual Labor and Employment Law Virtual Conference
11.05.2020

Cannabis Webinar Wednesday - Breaking Down COVID-19's Impacts on the Cannabis Industry
Webinar, 04.22.2020

Webinar With Your Labor Lawyer - San Francisco
Spring 2020 Seminar Series
Webinar, 04.21.2020

Labor & Employment Law Webinar for Health Facilities, Including COVID 19 Issues
CAHF Virtual Spring Conference
03.30.2020

CANCELED: Unions Launch New Effort to Organize Game Companies - Are you Ready?
Sheppard Mullin San Francisco, 03.19.2020

Labor & Employment Law Seminar for Health Facilities
03.15.2020

Are Your Employment Arrangements Allowed Under AB5 and Dynamex?
California Association of Health Facilities (CAHF) Annual Convention
11.12.2019

Labor & Employment Law Update & Happy Hour - San Francisco
Fall 2019
10.08.2019

Labor & Employment Law Update for Health Facilities
San Diego
07.16.2019

Breakfast with Your Labor Lawyer - San Francisco
Spring 2019 Seminar Series
05.09.2019

Breakfast with Your Labor Lawyer - Palo Alto
Spring 2019 Seminar Series
05.01.2019

Labor & Employment Law Update for Health Facilities
CAHF & QCHF 2018 Summer Conference
07.17.2018

Breakfast With Your Labor Lawyer - Palo Alto
Spring 2018 Seminar Series
04.19.2018

Labor & Employment Law Update
California Association of Health Facilities 2018 Spring Legislative Conference
Sacramento, 03.19.2018

Labor & Employment Law Update & Happy Hour - San Francisco
Fall 2017 Seminar Series
10.18.2017

Memberships

American Bar Association - Committee on Practice and Procedure Under the NLRA
Bar Association of San Francisco
California Association of Health Facilities (CAHF)
California Bar Association

Podcasts & Webinars

Labor & Employment Update – What Retailers Need to Know
01.28.2021

Practices

Healthcare
Labor and Employment
Labor and Employment Counseling
Employee Hiring/Discipline/Termination
Employment Agreements
Handbooks and Personnel Policies

Harassment Investigation and Training
Wage and Hour Regulations
Labor and Employment Litigation
Discrimination, Harassment, and Retaliation
Wage and Hour Class Actions
Wrongful Termination
Labor Union Management Relations

Industries

Aerospace & Defense
Art
Automotive
Cannabis
Construction
Education
Emerging Company & Venture Capital
Energy, Infrastructure and Project Finance
Entertainment, Technology and Advertising
Esports & Games
Food and Beverage
Government Business
Healthcare
Hospitality
Retail, Fashion & Beauty
Transportation
Wine

Education

J.D., University of California, Hastings, 2010
B.A., Northwestern University, 2007

Clerkships

Extern to the Honorable Charles R. Breyer, U.S. District Court for the Northern District
Extern to the National Labor Relations Board Division of Judges – San Francisco

Admissions

California

U.S. Court of Appeals, D.C. Circuit

U.S. Court of Appeals, Fifth Circuit

U.S. Court of Appeals, Ninth Circuit

U.S. District Court, Eastern District of California

U.S. District Court, Central District of California

U.S. District Court, Northern District of California