



Howard M. Wexler

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Biography

Practices & Sectors

Labor & Employment

Employment Litigation

Labor Management Relations

Wage & Hour Litigation

Workplace Counseling & Solutions

Appellate Advocacy

Government Compliance and Enforcement Actions

Wage & Hour Audit, Assessment, and Counseling

New Jersey Practice Group

Retail

Specialty Teams

Whistleblower Team

Workplace Whistleblower

Transportation and Logistics Team

Howard M. Wexler is a partner in the Labor and Employment group in Seyfarth Shaw's New York office. His practice includes the representation of management in employment litigation matters before state and federal courts, at trial and appellate levels, as well as federal and state agencies, including the National Labor Relations Board, Equal Employment Opportunity Commission, Department of Labor, New York State Division of Human Rights and New Jersey Division on Civil Rights. In this role, Mr. Wexler has extensive experience defending both single and multi-plaintiff discrimination/harassment cases, class and/or collective actions, as well as lawsuits initiated by the EEOC. He has represented employers in class and collective actions and multi-plaintiff claims involving discrimination/harassment on the basis of age, race, gender, national origin, and other protected classifications as well as whistleblower actions, including under New Jersey's Conscientious Employee Protection Act ("CEPA"). His wage-and-hour experience includes the defense of major class action claims involving meal breaks, rest breaks, misclassification, and work-off-the-clock allegations. Mr. Wexler is Co-Chair of Seyfarth's New Jersey Practice Group.

Mr. Wexler also counsels employers on preventative practices to minimize workplace disputes, including advising employers on issues relating to personnel handbooks and policies, employee relations, internal complaints and investigations, FMLA and ADA issues, as well as other employment issues which employers face routinely. He provides training for attorneys, executives, human resources professionals, and managers on best EEO practices, preventing sexual harassment, and avoiding employment litigation claims. Mr. Wexler also defends clients in lawsuits arising under Title III of the Americans with Disabilities Act and related New York state and New York City disability access laws.

As part of his traditional labor law practice, Mr. Wexler counsels and represents employers in disputes arising from collective bargaining relationships in both grievance and arbitration proceedings and has defended unfair labor practice claims before the National Labor Relations Board (NLRB).

Mr. Wexler has lectured on employment matters, including discrimination and harassment avoidance, workplace investigations, reductions in force, and Federal and State wage and hour laws. He has taught Employment Law at the Pratt Institute and the New School as an adjunct professor. Mr. Wexler is also a frequent contributor to, and often quoted in, publications including *Newsday*, *Corporate Counsel* and the *Long Island Business News* dealing with issues relating to labor and employment law.

Education

- J.D., Boston University School of Law, *cum laude* (2007)
Paul J. Liacos Scholar
Honors in the Litigation and Dispute Resolution Concentration
- B.S., Industrial and Labor Relations, Cornell University (2004)

Admissions

- New York
- New Jersey

Courts

- US Court of Appeals, Second Circuit
- US Court of Appeals, Third Circuit
- US District Court, District of Connecticut
- US District Court, District of New Jersey
- US District Court, Eastern District of New York
- US District Court, Northern District of New York
- US District Court, Southern District of New York
- US District Court, Western District of New York

Affiliations

- American Bar Association
- New York State Bar Association (Labor and Employment Law Section, Executive Committee)

Representative Engagements

- *Moore v. Verizon New York Inc. et al.*, 13-cv-6467(RJS) (S.D.N.Y. Feb. 5, 2016)
(obtained full dismissal via motion to dismiss multi-count discrimination, harassment and retaliation, including claims under the NYCHRL)
- *Carter v. Verizon New York Inc. et al.*, 13-cv-6467(RJS) (S.D.N.Y. April 23, 2015)
(obtained full dismissal via motion to dismiss multi-count complaint by former employee alleging discrimination, harassment and retaliation)
- *Ward v. Verizon New York Inc.* 14-cv-2841 (JBW)(RER) (E.D.N.Y. June 11, 2014)
(argued and on brief in case dismissing petition to vacate labor arbitration award)
- *Brown v. Somer's Bldg. Maint.*, 2014 U.S. Dist. LEXIS 80916 (D.N.J. June 10, 2014)
(obtained full dismissal on motion for summary judgment of discrimination, hostile work environment and retaliation claims brought under Title VII)
- *Rodriguez v. Ready Pac Produce et al.*, 2014 U.S. Dist. LEXIS 64139 (D.N.J. May 9, 2014)
(obtained dismissal on motion to dismiss on all claims, including claims for wrongful termination, unjust enrichment, discrimination, retaliation, and emotional distress)

- *Harris v. Ready Pac Florence Partnership*, Superior Court of New Jersey, Appellate Division, Docket No. A-3192-11T2 (February 19, 2014) (obtained full dismissal of challenge of New Jersey Division on Civil Rights' finding of no probable cause in claim of discrimination based on race and age in violation of the Law Against Discrimination)
- *Rodriguez v. Springhill Suites by Marriott*, 2014 U.S. Dist. LEXIS 16605 (D.N.J. Feb. 10, 2014) (granting motion to dismiss common law wrongful discharge claim)
- *McLeod v. Verizon New York, Inc.*, 13-cv-01751 (ADS)(AKT) (E.D.N.Y. Feb. 1, 2014) (motion to dismiss granted based on Section 301 preemption of wrongful termination and constitutional law claims)
- *Berridge v. Nalco Co.*, 2014 U.S. Dist. LEXIS 11409 (D.N.J. Jan. 30, 2014) (obtained full dismissal on motion for summary judgment of FMLA retaliation and interference and New Jersey state law claims alleging defamation and Violation of Duty of Good Faith and Fair Dealing)
- *Phillips v. Verizon New York, Inc. et. al.* Index No. 100823/2013 (EAR) (N.Y. Sup. Ct. New York County, September 20, 2013) (obtained full dismissal on motion to dismiss of all claims in Article 78 challenge of NYS Division of Human Rights finding of no probable cause in claims of discrimination based on race, color and disability)
- *Walker v. New York City Fire Department, et. al.*, Index No 010394/2012 (N.Y. Sup. Ct., Kings County) (argued and on the brief in case dismissing allegations of intentional infliction of emotional distress, negligence and breach of contract against contractor of New York City)
- *Hearne v. Best Buy Stores, L.P.* Civil Action No. CPU4-13-000795 (Del. Court of Common Pleas, May 31, 2013) (granting motion to dismiss complaint alleging failure to pay wages under state law and negligence)
- *Archut v. Ross Univ. Sch. of Veterinary Med.*, 2012 U.S. Dist. LEXIS 164960 (D.N.J. Nov. 19, 2012) (granting summary judgment over Plaintiff's claims under the Rehabilitation Act, Americans with Disabilities Act and New Jersey Law Against Discrimination on grounds of extraterritoriality)
- *Ahmed v. Interstate Mgmt. Co.*, 11-cv-683 (FSH) (PS) (D.N.J. July 25, 2012) (obtained full dismissal on motion for summary judgment of race, national origin, and religious discrimination and retaliation lawsuit brought under the New Jersey Law Against Discrimination)
- *Cohen v. Avande, Inc.*, 11 Civ. 4314 (JMF) (S.D.N.Y. June 15, 2012) (obtained full dismissal pursuant to Rule 12(b)(6) of former employee's six count complaint alleging causes of action for breach of contract, negligent misrepresentation, fraudulent inducement and professional embarrassment)
- *Paulino v. Hazel I d/b/a McDonald's*, Case No. MID-L-10469-09 (N.J. Sup. Ct., Middlesex County, October 28, 2011) (obtained full dismissal on motion for summary judgment of sexual harassment and hostile work environment claims brought under New Jersey Law Against Discrimination)

Presentations

- Co-Presenter, "Growing Trends in the Garden State: New Jersey's Latest Employment Law Developments," Webinar, Seyfarth Shaw LLP (March 27, 2019)
- Moderator, "Epic Changes? Arbitration and Class/Collective Action Waivers...What's

- Next?," New York State Bar Association, Labor and Employment Section Fall Meeting, Montreal, Canada (October 13, 2018)
- Panelist, "Litigation Practice: Discovery Skills and Settlement" U.S. Department of Labor, Officer of the Solicitor, New York Regional Office - Training Program, New York, New York (September 24, 2018)
 - Panelist, "Settlement Agreements," Employment Law For The General Practitioner and Corporate Counselor, New York State Bar Association, New York, New York (June 4, 2018)
 - Co-presenter, "New Jersey Employment Law Update," Webinar, presented by Seyfarth Shaw LLP (May 16, 2018)
 - Co-Presenter, "Developments in Wage & Hour Law," The 4th Annual Employment Law Institute, New York City Bar Association (March 9, 2018)
 - Presenter, "New York Employment Law: 2017 Forecast," Breakfast Briefing, presented by Seyfarth Shaw LLP, New York, NY (February 15, 2017)
 - "Minimizing Liability with Employee Handbooks," Breakfast Briefing presented by Seyfarth Shaw LLP, New York, NY (March 15, 2016)
 - Co-Presenter, "EEOC Conciliation Efforts: Reviewability - Truth & Consequences for Employers in 2015 & Beyond," The Knowledge Group/The Knowledge Congress, Webinar (December 4, 2015)
 - Co-Presenter, "How Much Is Enough?: Pleading (and moving to dismiss) Discrimination Claims In Light of Littlejohn and Vega," New York State Bar Association, Labor and Employment Section, Webinar (November 30, 2015)
 - [Co-Presenter, "Legal Update for New Jersey Employers on New Jersey's Conscientious Employee Protection Act \(CEPA\) Whistleblower Statute," Seyfarth Shaw Webinar \(November 12, 2015\)](#)
 - Panelist, "Updates on Case Law Including U.S. Supreme Court Cases" ACI's 24th National Conference on Employment Practices Liability Insurance, New York, New York (July 27, 2015)
 - Co-Presenter, "Managing a Remote Workforce: Legal and Practical Implications Employers Should Consider," Seyfarth Shaw Breakfast Briefing, New York, New York (September 24, 2014)
 - Panelist, "Tackling Labor & Employment Issues in Professional Sports and Beyond," Asian American Bar Association of New York Fall Meeting, New York, New York (September 20, 2014)
 - Panelist, "Big Brother Is Watching...But Is It Legal? A Review of Current Issues Relating to Background Checks," New York State Bar Association, Labor and Employment Section Fall Meeting, Ithaca, New York (September 13, 2014)
 - Panelist, "Employment Law Training for Mediators U.S. District Court for the Southern District of New York," Co-Sponsored by the American Bar Association - Section of Labor and Employment Law, Cornell ILR-Labor and Employment Law Program, National Employment Lawyers Association - New York Chapter, New York City Bar Association - Labor and Employment Law Committee and New York State Bar Association - Labor and Employment Law Section, White Plains, New York (March 11, 2014)
 - Panelist, "Present and Accounted For: Labor Laws Affecting Military Service Members," New York State Bar Association, Labor and Employment Section Fall Meeting, Ontario-on-the-Lake, Canada (October 5, 2013)

- Co-Presenter, "Avoiding Litigation Risks During Periods of Downsizing and Reductions in Force," Seyfarth Shaw Breakfast Briefing, New York, New York (April 17, 2013)
- Panelist, "When a Time-Out is Not Enough: Dealing With Behavioral Problems of Unit Owners Incapable of Caring for Themselves," New York State Bar Association, Real Property Section Annual Meeting, New York, New York (January 24, 2013)
- Co-Presenter, "Legal Issues Involving Discipline and Investigations in the Digital Age," Nassau Academy of Law, Mineola, New York (November 19, 2009)
- Co-Presenter, "Legal Issues and Investigations Involving Student and Staff Discipline in the Digital Age," Mid-Hudson School Study Council, Newburgh, New York (March 12, 2009)

Publications

- Co-Author, "New Pay Equity Laws in New York and New Jersey (Again)," *Pay Equity Update*, Seyfarth Shaw LLP (July 15, 2019)
- Co-Author, "Reminder: 100 Days Until NYS Deadline for Employers to Provide Sexual Harassment Prevention Training," *One Minute Memo*, Seyfarth Shaw LLP (July 1, 2019)
- Author, "New Jersey to Require Hotel Employers to Provide "Panic Devices" to Employees," *Management Alert*, Seyfarth Shaw LLP (June 19, 2019)
- Co-Author, "New Jersey Says No to Pre-Dispute Arbitration Agreements and Non-Disclosure Provisions," *One Minute Memo*, Seyfarth Shaw LLP (March 18, 2019)
- Co-Author, "New Jersey Puts Family First with Paid Family Leave Expansion," *Management Alert*, Seyfarth Shaw LLP (February 21, 2019)
- Co-Author, "Pre-Dispute Arbitration Agreements and Non-Disclosure Provisions on the Chopping Block in New Jersey," *Management Alert*, Seyfarth Shaw LLP (February 5, 2019)
- Co-Author, "New Jersey Democratic Party Raises the Roof on Minimum Wage," *Management Alert*, Seyfarth Shaw LLP (February 4, 2019)
- Co-Author, "District Court of New Jersey Finds Plaintiff Agreed to Arbitrate By Not Opting Out of the Arbitration Program," *Management Alert*, Seyfarth Shaw LLP (January 22, 2019)
- Co-Author, "Supreme Court Grants Cert. to Interpret Meaning of "Confidential" or "Trade Secret" Under FOIA," *Management Alert*, Seyfarth Shaw LLP (January 17, 2019)
- Co-Author, "New York Extends Wage Deduction Rules," *One Minute Memo*, Seyfarth Shaw LLP (January 4, 2019)
- Co-Author, "Mirror Mirror on the Wall, Who's the Fairest of Them All: Philadelphia's Fair Workweek Law?," *Management Alert*, Seyfarth Shaw LLP (December 20, 2018)
- Co-Author, "2018 Trade Secrets and Non-Competes Webinar Series Year in Review," *Management Alert*, Seyfarth Shaw LLP (December 7, 2018)
- Co-Author, "New York Minimum Wage and Exempt Status Salaries Set to Increase Again, But Wage Deduction Rules May Expire," *Management Alert*, Seyfarth Shaw LLP (November 13, 2018)
- Co-Author, "As Effective Date for "Cooperative Dialogue" Approaches, New York City Issues Guidance," *Management Alert*, Seyfarth Shaw LLP (October 1, 2018)

- Co-Author, "New York City Commission on Human Rights Proposes New Rules Broadening the Definition of Gender and Prohibited Discriminatory Conduct," *Management Alert*, Seyfarth Shaw LLP (August 14, 2018)
- Co-Author, "Striking Workers Are Now Eligible For Unemployment Benefits In New Jersey," *One Minute Memo*, Seyfarth Shaw LLP (August 15, 2018)
- Co-Author, "New Jersey's Department of Labor and Workforce Development Teams Up With USDOL To Combat Employee Misclassification," *One Minute Memo*, Seyfarth Shaw LLP (August 13, 2018)
- Co-Author, "New York Court of Appeals Establishes Lower Threshold for Punitive Damages Under NYCHR," *NYSBA Labor and Employment Journal*, Vol. 43, No. 1 (Spring 2018)
- Co-Author, "New Jersey Court Expands Coverage: New Jersey Law Against Discrimination May Apply to Telecommuter Located in Massachusetts," *One Minute Memo*, Seyfarth Shaw LLP (April 9, 2018)
- Co-Author, "New Governor, New Result: New Jersey Legislature Passes Pay Equity Bill," *Management Alert*, Seyfarth Shaw LLP (April 2, 2018)
- Co-Author, "New Jersey's Conscientious Employee Protection Act Requires Election of Remedies Before Summary Judgment," *One Minute Memo*, Seyfarth Shaw LLP (February 9, 2018)
- Co-Author, "Governor Christie Expands Protections For Breastfeeding Women Under The New Jersey Law Against Discrimination," *One Minute Memo*, Seyfarth Shaw LLP (January 10, 2018)
- Co-Author, "'Tis the Season for New Jersey CEPA and Gender Equity Notices and Increased Minimum Wage," *One Minute Memo*, Seyfarth Shaw LLP (December 15, 2017)
- Co-Author, "Happy New Year? 2018 Brings New Minimum Wage & Exempt Thresholds for New York Employers," *One Minute Memo*, Seyfarth Shaw LLP (December 5, 2017)
- Co-Author, "Shifty Business III: NYS Proposes Rules Requiring Pay for On-Call Scheduling Practices," *Management Alert*, Seyfarth Shaw LLP (November 13, 2017)
- Co-Author, "New York DOL Challenges Rescindment of Payroll Debit Card and Direct Deposit Regulations," *One Minute Memo*, Seyfarth Shaw LLP (May 5, 2017)
- Co-Author, "New York Industrial Board of Appeals Rescinds Payroll Debit Card and Direct Deposit Regulations," *One Minute Memo*, Seyfarth Shaw LLP (February 21, 2017)
- Co-Author, "It's a New Year in New York," *Management Alert*, Seyfarth Shaw LLP (January 6, 2017)
- Co-Author, "Pleading for Survival Under 12(B)(6): The Impact of Littlejohn and Vega on Pleading Standards Under Title VII," *NYSBA Labor and Employment Journal*, Vol. 41, No. 1 (Fall 2016)
- Co-Author, "New Jersey Supreme Court 'Plants the Seeds' for Increase in 'Garden Variety' Emotional Distress Jury Awards," *One Minute Memo*, Seyfarth Shaw LLP (October 11, 2016)
- Co-Author, "'Tis the Season for New Jersey CEPA and Gender Equity Notices," *Workplace Whistleblower*, Seyfarth Shaw LLP (December 17, 2015)
- Co-Author, "To Solicit or Not to Solicit? - That is the Question!" *HR Advisor*, Volume 21, Issue 4 (2015)
- Co-Author, "Minimum Wage To Increase For NY Tipped Hospitality Workers,"

Management Alert, Seyfarth Shaw LLP (February 24, 2015)

- Co-Author, "NJ Supreme Court Adopts *Faragher-Ellerth* and Expansive Definition of "Supervisor"," *Management Alert*, Seyfarth Shaw LLP (February 13, 2015)
- Co-Author, "New Jersey Appellate Court Holds State Whistleblower Claim Preempted by Federal Labor Law," *Workplace Whistleblower*, Seyfarth Shaw LLP (October 23, 2014)
- Quoted, "Diagnosing Discrimination Problems in Wellness Programs," *Corporate Counsel* (September 4, 2014)
- Quoted, "Help Wanted: Unpaid downtime annoying - but legal - for hourly workers" *Newsday* (August 25, 2014)
- Co-Author, "Contention Over EEOC Conciliation Continues," *Law360* (August 22, 2014)
- Co-Author, "Interest Groups Weigh in On Significant Whistleblower New Jersey Supreme Court Case," *Management Alert*, Seyfarth Shaw LLP (June 18, 2014)
- Quoted, "Inside Long Island Business: New NYC law for moms-to-be on job," *Newsday* (February 22, 2014)
- Co-Author, "New Jersey Supreme Court Issues Long-Awaited Battaglia Decision and Delivers Good and Bad News for Employers," *New Jersey Labor and Employment Law Quarterly, Vol. 35, No. 2* (February 2014)
- Contributing Chapter Editor, "The Developing Labor Law: The Board, the Courts, and the National Labor Relations Act, Sixth Edition, 2013 and 2016 Supplements," *Cumulative Supplement published by BNA and the American Bar Association*.
- Co-Author, "GPS Monitoring: The Legal Issue," *HR Advisor, Volume 19, Issue 6*, (November/December 2013)
- Co-Author, "New Jersey Governor Christie Enacts Amendment to NJLAD Designed to Fight Pay Inequity," *One Minute Memo*, Seyfarth Shaw LLP (September 3, 2013)
- "Help Wanted: Jobless benefits during school breaks," *Newsday* (August 12, 2013)
- Co-Author, "New Jersey Supreme Court Issues Long Awaited Battaglia Decision," *Management Alert*, Seyfarth Shaw LLP (July 19, 2013)
- Co-Author, "Gatto v. United Air Lines: The Spoliation Inference in the Facebook Age," *New Jersey Labor and Employment Law Quarterly Vol. 34, No. 4*, (July 2013)
- Contributing Author, [The Wage & Hour Litigation Blog](#)
- Contributing Author, [The Labor Relations Blog](#)
- Contributing Author, [The Workplace Class Action Blog](#)
- Co-Author, "Tips on Limiting Employer Liability at Company Parties," *HR Advisor, Volume 18, Issue 1*, (2012)
- "Teacher and Principal Evaluation Overhaul Signed Into Law," *Nassau Lawyer, Volume 60, No. 1*, (2010)
- "NY's Domestic Workers Bill of Rights," *Employment Law 360* (September 2010)
- Co-Author, "Legality of a Wage Freeze for Public Sector Employees and the State's Attempt to Impose Unpaid Furloughs," *New York State Public Employer Labor Relations Association Inc. Newsletter* (May 2010)
- "CDC Guidance: Preparing For H1N1," *Employment Law360 and Health Law 360* (September 2009)

- Contributing Editor, “The Fair Labor Standards Act,” *Cumulative Supplements published by BNA and the American Bar Association* (2009-2013)
- Contributing Editor, “The Family Medical Leave Act,” *Cumulative Supplements published by BNA and the American Bar Association* (2009-2013)

Accolades

- Super Lawyers New York Metro, Rising Stars, Employment Litigation: Defense (2014–2017)