

## 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