



→ Brian D. Murphy

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Brian Murphy is a partner in the Labor and Employment practice group and is based in the New York office.

Areas of Practice

Brian is an employment defense litigator defending management in all areas of employment law, with a particular focus on wage and hour class and collective action litigation under Rule 23 and the Fair Labor Standards Act, and class claims under the Fair Credit Reporting Act. In addition to defense litigation, Brian also provides counsel and advice to employers concerning workplace investigation of claims of discrimination, harassment, and retaliation, restrictive covenants, employment contracts, personnel policies, and reductions-in-force. Brian also develops training programs and conducts trainings for clients concerning appropriate workplace behavior and wage and hour compliance. Brian is the co-author of the *Wage and Hour Manual for New York Employers*, a first of its kind publication addressing wage and hour issues confronted by New York employers arising under federal, state, and local law, and the *Employer's Guide to COVID-19 and Emerging Workplace Issues*, the only comprehensive resource for employers in navigating and emerging from the pandemic.

Honors

New York Metro Super Lawyers, *Super Lawyers*, 2019-2022

Labor and Employment, *Legal 500*, 2016-2018

New York Rising Star, *Super Lawyers*, 2013-2018

Experience

Tal v. CompuTech International, Inc., No. 21-CV-5773 (JMA) (SIL) (E.D.N.Y. Dec. 1, 2022) (granting Rule 12(b)(6) motion to dismiss on claims alleging entitlement to post-termination commissions)

Excel Sports Management, LLC v. Klutch Sports Group, LLC, No. 2022-01640 (App. Div. 1st Dep't May 26, 2022) (securing preliminary appellate injunction overturning trial court decision and enforcing non-compete agreement prohibiting former employee from working for competitor)

Hossain v. Manhattan Sheraton Corp. d/b/a The St. Regis New York, No. 20-CV-3966-DG-PK (E.D.N.Y. Aug. 31, 2022) (securing summary judgment dismissing all age, race, and national origin claims under ADEA, Title VII, New York State Law, and New York City Law)

Long Island Anesthesia Physicians LLP v. Wagner, et al, No. 608765/2020E (Sup. Ct. Suffolk Cnty. Oct. 6, 2020) (defeating motion for preliminary injunction seeking to prohibit employee from working for our client)

Quinones v. Stuart Weitzman, LLC, No. RG18907349 (Sup. Ct. Alameda Cnty. Sept. 2020) (securing summary judgment dismissing Fair Credit Reporting Act and related California State Law claims)

Robertson v. Williams-Sonoma, Inc., et al., L-1493-17 (N.J. Sup. Ct. Oct. 11, 2018) (granting motion for summary judgment dismissing various tort claims for injuries sustained at work pursuant to “special employer” and “intentional wrong” standards under New Jersey Workers’ Compensation Act)

Scott v. Chipotle Mexican Grill, Inc., Case No. 12-CV-8333 (S.D.N.Y. Mar. 29, 2017) (order denying class certification, and granting decertification, of wage and hour claims based upon misclassification theory)

Elite Model Management, LLC v. DAS Model Management, LLC, Case No. 2017-001953-CA-01, (Miami-Dade Cty. Jan. 31, 2017) (order granting preliminary injunction and temporary restraining order on restrictive covenant and tortious interference claims)

Echavarria v. Williams Sonoma, Inc., Case No. 15-6441 (D.N.J. Mar. 16, 2016) (order granting summary judgment and denying class certification of wage and hour claims based upon independent contractor status)

Twomey v. Quad/Graphics, Inc., Case No. 13-CV-1109 (S.D.N.Y. Sept. 28, 2015) (order granting summary judgment to defendants on breach of contract, age discrimination, and national origin discrimination claims)

Whitt v. Prosper Funding LLC, No. 15-CV-0136 (S.D.N.Y. July 14, 2015) (granting motion to dismiss and compel arbitration of disability discrimination claim)

Mann v. Staples, Inc., No. A-5188-10T4 (N.J. App. Div. Aug. 1, 2012) (affirming grant of summary judgment dismissing sexual harassment and retaliation claims)

Nolley v. Swiss Reinsurance America Corp., No. 10-CIV-7626 (S.D.N.Y. Mar. 8, 2012) (granting summary judgment dismissing race discrimination and retaliation claims)

Jaafari v. The Bank of Tokyo-Mitsubishi UFJ, Ltd., No. 10-CV-4060 (S.D.N.Y. Sept. 2, 2011) (granting summary judgment dismissing race, sex, religion, national origin, and disability discrimination claims, as well as whistleblowing claims)

Turowski v. Triarc Companies, Inc., No. 09-CV-3979 (S.D.N.Y. Jan. 5, 2011) (granting summary judgment dismissing disability discrimination and failure to accommodate claims)

Connolly v. The TJX Companies, Inc., No. 07-CV-3282 (E.D.N.Y. Dec. 30, 2010) (granting summary judgment dismissing hostile work environment and retaliation claims)

Mekhitarian v. Deloitte & Touche (ICS), LLC, No 07-CV-0412 (C.D. Cal. Nov. 3, 2009) (denying class certification of wage and hour claims based upon misclassification theory)

Dominguez v. Costco Wholesale Corp., No. 05-5717 (D.N.J. Mar. 10, 2009) (granting summary judgment on NJ Conscientious Employee Protection Act (whistleblowing) claim)

Gimello v. Costco Wholesale Corp., No. A-1506-07T31506 (N.J. App. Div. Dec. 8, 2008) (affirming grant of summary judgment on NJ Conscientious Employee Protection Act (whistleblowing) claim)

Perugini v. Stryker Orthopaedics, No. 05-CV-1289 (D. Conn. Feb. 22, 2007) (granting summary judgment on age discrimination, sexual harassment, and retaliation claims)

DeLuca v. The Bank of Tokyo-Mitsubishi UFJ, Ltd., No. 06-CIV-5474 (S.D.N.Y. Mar. 31, 2008) (granting summary judgment on age and national origin discrimination claims)

Articles

- New World, New Rules, New Normal: Responding to Workplace COVID-19 Exposure
New York Law Journal, 10.21.2021
- New World, New Rules, New Normal: Handling Vaccination Accommodation Requests
New York Law Journal, 10.12.2021
- New World, New Rules, New Normal: Implementing A Mandatory Vaccination Policy
New York Law Journal, 09.21.2021
- Pay Equity In the Era of COVID and the Black Lives Matter Movement
New York Law Journal, 10.23.2020
- Workers' Comp Board Clarifies Scope of COVID-19 Compensability
Law.com, 08.11.2020
- Equal Theories of Liability? Pay Disparity Claims Under the Equal Pay Act and Title VII of the Civil Rights Act
New York Law Journal, 02.21.2020
- Remediating Risks Revealed in a Pay Equity Audit: Part III
Corporate Counsel, 04.12.2019
- Pay Equity Audits as a Risk Identification Tool: Part II
Corporate Counsel, 04.11.2019
- Recognizing and Remediating Gender Pay Equity Issues in the Workplace: Part I
Corporate Counsel, 04.10.2019
- Emerging Trends In State And Local Equal Pay Efforts
Law360, 10.22.2018
- Handling Federal, NY State And NYC Background Check Laws
Law360, 02.20.2018
- Working Hard or Playing Hard? eSports and the Fair Labor Standards Act
New York Law Journal, 11.21.2017
- Maximizing Confidentiality of Settlements of Individual Claims Under the FLSA
New York Law Journal, 02.09.2017
- New FLSA Overtime Regulations: Planning for Costs of Compliance
New York Law Journal, 11.07.2016
- Co-author, "Rethinking The Use of Credit Histories In the Hiring Process," *HRAvisor*, March/April 2011
- Co-author, "Forever Yours: In 'Ashland-Management'," Confidential Knows No Bounds, *NYLJ*, March 23, 2009
- Co-author, "The Sword and Shield: Protective Orders Guard Against Unwarranted Depositions of Executives," *NYLJ*, October 3, 2008
- Co-author, "The Forgotten Overtime Exemption," *Workforce Management*, May 29, 2008

Labor and Employment Law Blog Posts

- "New Year, New Rules: New York Employees May Begin Taking Paid Sick Leave January 1, 2021," January 4, 2021
- "New York State Amends WARN Act to Require Additional Notifications," November 30, 2020

- "New York State Releases First Guidance on New Paid Sick Leave Law," October 23, 2020
- "Reminder: Accrual Requirements Under New York State's New Paid Sick Leave Law Effective September 30, 2020," September 30, 2020
- "Independent Contractor v. Employee: DOL Releases Proposed Rule Clarifying Test for Classification of Workers," September 30, 2020
- "New York State Passes Guaranteed Sick Leave for Working New Yorkers Beyond COVID-19," April 7, 2020
- "Southern District of New York Invalidates State Ban on Mandatory Arbitration of Harassment and Discrimination," July 10, 2019
- "United States Department of Labor Issues Final Rule Concerning Minimum Salary Threshold to Qualify for Exemption from Overtime Under the Fair Labor Standards Act," March 8, 2019
- "Sheppard Mullin Secures Major Victory for Chipotle in Nationwide Misclassification Action By Demonstrating Variations Among Proposed Class Members," April 10, 2017
- "Second Circuit Imposes Individual Liability on New York Mayoral Candidate for Fair Labor Standards Act Settlement," July 12, 2013
- "Second Circuit Overturns Class Certification Order in Assistant Branch Manager Overtime Case," June 5, 2013

Books

Employer's Guide To COVID-19 And Emerging Workplace Issues: Year 2
02.2021

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

Wage and Hour Manual For New York Employers
07.2019

Media Mentions

New York Employers Paying Biweekly Hit With Wage Class Actions
Bloomberg Law, 08.11.2022

Litigator of the Week Runners-Up and Shout Outs
The American Lawyer, 06.03.2022

19 Hiring Traps to Avoid
SHRM, 10.23.2020

Speaking Engagements

"Ask the Lawyers: The Coronavirus and Labor Law," NMHC OPTECH Conference & Exposition, November 16-19, 2020

Events

Sheppard Mullin's Labor & Employment Law Update - Year In Review
Convene, New York, 11.08.2022

Labor & Employment Spring Update
Webinar, 06.09.2022

Sheppard Mullin's Labor & Employment Law Update - Year In Review
Webinar, 11.16.2021

Returning to the Office: *The Legal Requirements and Practical Considerations Employers Must Consider in the "New Normal"*
Webinar, 06.30.2021

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

Taking a Shot at COVID-19: What Employers Need to Know About Vaccinating their Workforce
Webinar, 01.14.2021

Navigating COVID-19 Employment Issues In & Out Of The Office
Webinar, 11.19.2020

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

Hot Topics in Privacy and Cyber Security in Uncertain Times: A Virtual Resource for In-House Privacy Teams
Webinar, 07.15.2020

Getting Back to Business Webinar Series (Part 2)
Planning and Best Practices for Employers in a Changed Workplace
Webinar, 05.28.2020

Getting Back to Business Webinar Series (Part 1)
Planning and Best Practices for Employers in a Changed Workplace
Webinar, 05.21.2020

2019 Wage And Hour Laws (NY)
Sheppard Mullin Office - 30 Rockefeller Plaza, 09.10.2019

Labor and Employment Law Spring Update - New York
Spring 2019
05.22.2019

Labor & Employment Law Update
New York
06.07.2018

Labor & Employment Law Update - Year in Review

New York Fall 2017

11.15.2017

Sheppard Mullin's Spring 2016 Labor & Employment Law Update

06.22.2016

2014 Labor & Employment Year In Review

11.13.2014

Podcasts & Webinars

Sheppard Mullin's Labor & Employment Law Update - Year in Review (New York)

11.08.2022

NY Spring Labor & Employment Update

06.09.2022

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

11.16.2021

Labor & Employment Spring Update

05.25.2021

Taking a Shot at COVID-19: What Employers Need to Know About Vaccinating their Workforce

01.14.2021

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

11.12.2020

Hot Topics in Privacy and Cyber Security in Uncertain Times: A Virtual Resource for In-House Privacy Teams

07.15.2020

Getting Back To Business Webinar Series: Session Two

05.28.2020

Getting Back to Business Webinar Series: Session One

05.21.2020

Practices

Labor and Employment

Labor and Employment Counseling

Labor and Employment Litigation

Labor Union Management Relations

Industries

Esports & Games

Hospitality

Retail, Fashion & Beauty

Education

J.D., Saint John's University School of Law, *cum laude*, 2004

B.A., University of Buffalo, 2001

Admissions

New York

United States Court of Appeals for the Second Circuit

United States District Court for the Southern, Eastern and Western Districts of New York