



Kenneth A. Rosenberg

Partner

krosenberg@foxrothschild.com



Morristown, NJ

Tel: 973.994.7510

Fax: 973.992.9125

Ken provides clients with creative and practical solutions to resolve their labor and employment issues efficiently. He leads Fox Rothschild's Affirmative Action/OFCCP practice.

Ken practices labor and employment law, representing employers nationally in both union and non-union contexts. He works closely with business owners, human resource professionals and in-house counsel to ensure they are complying with the myriad of complex workplace-related rules mandated by federal and state law.

As head of the firm's AAP/OFCCP practice, Ken assists federal and state contractors:

- comply with the numerous affirmative action and equal employment opportunity laws and regulations;
- develop affirmative action plans and related documents; and
- navigate OFCCP audits.

For unionized employers, Ken represents his clients in collective bargaining, arbitration and unfair labor practice proceedings before the National Labor Relations Board, the New Jersey Public Employment Relations Commission, and the New York Public Employment Relations Board.

Ken also assists his clients in developing and implementing employee handbooks, personnel policies and procedures, and employment and severance agreements. He further provides day-to-day counseling and training to his clients in connection with all federal, state and local laws that impact the employment relationship including, but not limited to, disciplinary, leave and accommodation, wage and hour issues.

Ken aggressively defends his clients against claims of discrimination, harassment and retaliation in federal/state court and administrative tribunals.

Services

- Labor & Employment
- Federal Government Contracts & Procurement
- Affirmative Action Programs & OFCCP Compliance
- Employment Class Actions
- Employment Counseling, Policy Development & Audits
- Employment Training

- Sexual Harassment Prevention Training
- Labor Management Relations
- Trade Secrets & Restrictive Covenants
- Manufacturing

Before Fox Rothschild

Ken was employed by the Essex County Counsel's Office as an Assistant County Counsel. He is a former Associate General Counsel for the City of New York's Department of Citywide Administrative Services.

Beyond Fox Rothschild

Ken is frequently engaged to educate business leaders and his peers on various labor, employment and affirmative action topics. Among the organizations Ken has presented to include the New Jersey Business and Industry Association, New Jersey Department of Labor, New Jersey Corporate Counsel Association, New Jersey Institute for Continuing Legal Education, New Jersey Gasoline-Convenience-Automotive Association, Public Employment Relations Commission's Annual Conference, New Jersey Association of Counties' Annual Conference, New York State Public Employer Labor Relations Association's Annual Conference, Commerce and Industry Association of New Jersey and Council on Education in Management.

Ken has served on the New Jersey State Bar Association's Labor and Employment Law Section Executive Committee since 2017. He serves as editor emeritus for the bar association's *New Jersey Labor and Employment Law Quarterly*.

Bar Admissions

- New Jersey
- New York

Court Admissions

- U.S. District Court, District of New Jersey
- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of New York

Education

- Albany Law School (J.D., 1995)
- State University of New York at Albany (B.S., *cum laude*, 1992)

Memberships

- Essex County Bar Association
 - Delegate to the New Jersey State Bar Association General Council, 2019-2020
 - Past President
- New Jersey State Bar Association
 - Executive Committee, Labor & Employment Section
 - Nominating Committee, May 2017 – April 2019
- Sidney Reitman Employment Law American Inn of Court
- The National Industry Liaison Group

Board of Directors

- Jewish Community Foundation of Greater MetroWest New Jersey (Trustee)

Representative Experience

Affirmative Action Plan (AAP) and OFCCP Matters

Contractors and subcontractors nationwide in the preparation of federal and state affirmative action plans that cover a range of businesses and entities, including banks, financial institutions, media companies, transportation companies, defense contractors, construction companies, research facilities, energy plants and universities.

A **regional bank** in a 12-month compliance audit initiated by the OFCCP and obtained closure letter with no citations or violations issued under Executive Order 11246 (EO 11246), Section 503 of the Rehabilitation Act of 1973 (Section 503) or the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA).

An **international financial, software, data and media company** in obtaining closure letters with no citations or violations issued following multiple AAP compliance audits initiated by the OFCCP under EO 11246, Section 503 or VEVRAA.

A **national architecture/engineering firm** in obtaining closure of its OFCCP affirmative action audit without any violations or citations under EO 11246, Section 503 or VEVRAA.

**Results may vary depending on your particular facts and legal circumstances.*

Labor Relations Matters

A **nursing home and rehabilitation center** in contract negotiations with three Local 1199J units which resulted in the successful negotiation of sub-CPI wage increases and significant overtime and probationary status give-backs with the center's registered nurses, licensed practical nurses and certified nursing assistants.

Rutgers, The State University of New Jersey in obtaining dismissal of unfair practice charges brought by FOP Lodge 62 alleging that the university violated the Employer-Employee Relations Act by requiring union members to pay doctor visit co-pays when seeking notes to verify illness based on the application of the past practice doctrine.

The **City of Yonkers** in successfully defeating grievance arbitrations and unfair practice charges brought by five separate unions, alleging that their members were entitled to a 27th payroll period payment worth over 6 million dollars.

A **national siding manufacturer** in successfully defeating grievance arbitration brought by United Steelworkers seeking to reverse discharge of five employees caught stealing time by employer.

A **national trucking company** in obtaining dismissal of an unfair charge brought by the National Labor Relations Board alleging client had discharged warehouse employee in retaliation for allegedly exercising his rights under the National Labor Relations Act where evidence showed no nexus between disciplinary action and alleged protected activities.

A **national lighting manufacturer** in successfully negotiating and coordinating the layoff of 150 unionized employees without any federal or state WARN violations.

A **private not-for-profit religious school** in decertifying its teacher's association without any unfair practice charges being filed or other labor actions.

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Litigation Matters

A **church** in obtaining dismissal of Order to Show Cause and Complaint brought by the pastor alleging violations of the State of New Jersey's Conscientious Employee Protection Act based on the application of the ministerial exception that prohibits court interference in matters arising between a congregation and its church leaders.

A **regional bank** in successfully moving to dismiss complaint alleging tort claims brought by employee that sought to circumvent the State of New Jersey Worker's Compensation statute by asserting the intentional wrong exception was met due to exposure to toxic mold and subsequently defeated plaintiff's appeal at the Appellate Division.

A **general contractor** in successfully moving to dismiss a complaint alleging various employment torts based on the application of the entire controversy doctrine where plaintiff had previously sued and settled prior wage and hour claims against the same defendant and failed to raise her tort allegations in initial complaint.

A **New Jersey township** in successfully vacating an arbitration decision pursuant to N.J.S.A. 2A:24-8(a) and (d) where the award was procured by undue means and the arbitrator so imperfectly performed his duties that a mutual, final and binding award was not made after arbitrator improperly ruled: (1) the union's grievance could proceed even though it was filed beyond the negotiated grievance filing deadline; and (2) the township was precluded from prohibiting employees from carrying over more than one year's worth of vacation leave in violation of state law and the negotiated contract language.

A **regional painting company** against claims brought by former employee that he was terminated for whistleblowing activities in violation of the State of New Jersey's Conscientious Employee Protection Act. Negotiated favorable settlement before mediator by demonstrating employee had lied on his employment application regarding reason for leaving prior employer as well as ongoing employee misconduct with current company.

**Results may vary depending on your particular facts and legal circumstances.*

Harassment/Discrimination Investigations and Training

A **real estate management company** with investigation of claims of sexual assault and harassment brought by an employee, ultimately finding that the claims were disingenuous and prompting mediator to determine employee was not entitled to any damages relating to harassment claims.

An **international transdermal patch manufacturer** with investigation of claims of race discrimination, issuing a report used by the company to assert Ellerth/Faragher defense in litigation and to mediate resolution.

The **chief executive officer of a not-for-profit regional health care provider** in the successful defense against false allegations of financial improprieties and conflicts of interest brought by disgruntled employee which resulted in dismissal of all charges against executive and employee being terminated for making false reports.

Anti-harassment/discrimination training for:

- National lighting company
- International transdermal patch manufacturer
- Real estate developer
- Public relations/media company

**Results may vary depending on your particular facts and legal circumstances.*

Wage & Hour Matters

A **national electrical contractor** in obtaining closure of wage and hour investigation brought by the State of New Jersey's Department of Labor without any penalties, fines or back wages assessed because agency lacked jurisdiction over out-of-state workers even though employer was headquartered in New Jersey.

A **video/media installation company** in negotiating the resolution of an employee/independent contractor misclassification allegation brought by the State of New Jersey's Department of Labor with a *de minimis* payment in consideration for a full release and safe harbor period.

**Results may vary depending on your particular facts and legal circumstances.*

Honors & Awards

- **Selected to “AV Preeminent” list of rated attorneys**

This award is conferred by Martindale-Hubbell. A description of the selection methodology is [available here](#). No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

- **Selected to the "Super Lawyers" list for Employment & Labor Law in New Jersey (2018-2024)**

This award is conferred by Thomson Reuters. A description of the selection methodology is [available here](#). No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

- **Selected to the "Rising Stars" list for Employment & Labor Law in New Jersey by Super Lawyers (2008-2009)**

This award is conferred by Thomson Reuters. A description of the selection methodology is [available here](#). No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

- **Essex County Bar Association Young Lawyers' Achievement Award**