
Matthew J. Behr

Co-Chair, Public Entity & Civil Rights Litigation
Practice Group

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Matthew serves as Co-Chair of the Public Entity and Civil Rights Litigation Practice Group. His practice is concentrated in the defense of public entities in the areas of employment law and municipal liability. As well, he defends municipal and county governments, police departments, police officers and school boards in cases relating to civil rights, sexual harassment, age discrimination, race, ethnic, gender and handicap discrimination, and land use issues. Matthew also has vast experience in cases involving retaliation and whistle blowing under state law, and his practice involves both federal and state courts.

Further, Matthew has considerable experience in representing public entities and private entities in matters involving the Fair Housing Act and American with Disabilities Act in federal and state courts and agencies as well as in the Division on Civil Rights and EEOC. He has represented various entities including Homeowners' Associations in reasonable accommodation and disability discrimination cases and has recently obtained a summary judgment motion on behalf of a HOA involving the issue of emotional support animals.

Clients rely on Matthew to handle their most complex and high-exposure litigation. He has successfully settled numerous cases well below the initial demand, including a high-profile case involving allegations of bullying in a school district that received national attention. He understands the complexity of these cases and how they affect not only the clients, but the carriers as well, from both a litigation and reputational perspective.

Matthew was recently appointed to the District IV Ethics Committee by the New Jersey Supreme Court and is serving a four-year term from September 1, 2024 to August 31, 2028.

Matthew received his B.A. in Political Science from The Pennsylvania State University. He earned his *juris doctor* from Seton Hall School of Law in 1998. Following law school,

Practices

- Public Entity & Civil Rights Litigation
- School Leaders' Liability
- Employment Law

Matthew served as a judicial law clerk for the Honorable George L. Seltzer in Atlantic City.

Matthew joined Marshall Dennehey in 2003, bringing with him considerable employment law experience.

Education

- Seton Hall University School of Law (J.D., 1998)
- The Pennsylvania State University (B.A., 1994)

Admissions

- New Jersey, 1999

Representative Cases & Matters

- Summary judgment granted in case where employee of a Board of Education brought whistle blowing allegations.
- Summary judgment granted in case against general contractor where damages were well in excess of \$1 million by showing the contractor had no involvement in the alleged deficient work site.
- Summary judgment granted in case where former employee sued police department for discrimination and alleged whistle blowing activities.
- Summary judgment granted in case where plaintiff alleged police officers used excessive force where multiple officers shot him numerous times.
- Summary judgment granted in case where former employee of Board of Education brought allegations of violations his civil rights when the Board of Education reported to police allegations of improper use of his Board-issued computer.

Associations & Memberships

- New Jersey Bar Association
- New Jersey Supreme Court, District IV Ethics Committee

Published Works

- "Just Because You Expunge a Record Does Not Mean Internal Affairs Records Are Not Subject to an Open Public Records Act Request," *Defense Digest*, Vol. 30, No. 4, December 2024
- "Police Officers Have a Ministerial Duty to Render Assistance to an Intoxicated Person Involved in a Motor Vehicle Accident and Are Not Immune Under the New Jersey Tort Claims Act," *Defense Digest*, Vol. 26, No. 2, June 2020
- *Legal Updates for New Jersey Public Entity & Civil Rights*, regular contributor, 2018-present

Results

Summary Judgment Obtained in Disability Discrimination Case

We successfully obtained summary judgment for a county in a lawsuit alleging disability discrimination and failure to accommodate under the New Jersey Law Against Discrimination. After being sent for a fitness-for-duty examination, a medical professional determined that the plaintiff was not fit for duty, leading to his termination. The court ruled in favor of the county, granting summary judgment on all claims and dismissing the case with prejudice.

Favorable Decision Obtained from the Court of Appeals for the Third Circuit

We received a favorable decision from the Court of Appeals for the Third Circuit in a First Amendment case. The circuit court affirmed the District of New Jersey's denial of a preliminary injunction in which the plaintiff claimed that federal and local officials violated her First Amendment rights through censorship and retaliation after she posted comments on Facebook. In a published decision, the Third Circuit agreed with our arguments that the plaintiff lacked standing since she could not demonstrate a substantial risk of future harm specific to our client, the former chief of police of North Hanover, NJ, as well as the other co-defendants.

Summary Judgment Secured in Favor of a New Jersey Homeowners Association

We won summary judgment for a homeowners association. Our client filed a lawsuit to enforce the Covenant of Restrictions banning barnyard animals and claiming that the homeowners failed to obtain necessary approvals to build a coop and run for six chickens. The homeowners claimed the six chickens were emotional support animals, pursuant to the Fair Housing Act (FHA) and New Jersey Law Against Discrimination (NJLAD). The court held that the chickens are not emotional support animals, pursuant to both FHA and NJLAD, and granted summary judgment. This is an area of first impression for the New Jersey courts as to whether non-domesticated animals can be considered emotional support animals.

Client dismissed from litigation involving high school wrestler's claim of discrimination based on his hair style.

We were successful in obtaining a dismissal of our client, a state interscholastic athletic association, by way of a motion to dismiss for failure to state a claim. The plaintiff was a high school wrestler who was not permitted to wrestle due to an alleged violation of the rules concerning hair style and covering requirements. The wrestler had his hair cut by the athletic trainer in order to wrestle. This incident was recorded by a local reporter and went viral. As a result of the incident, most states, including New Jersey, amended their discriminatory laws to specifically identify hair style as a protected category. The plaintiff claimed that his constitutional rights were violated and that he was discriminated against based on his hair style. We were successful in arguing that the plaintiff did not set forth causes of action for negligence, constitutional violations and a violation of the New Jersey Law Against Discrimination.

Thought Leadership

April 1, 2026

Appellate Division Reverses Summary Judgment for Failure to Conduct Required In-Camera OPRA Review

March 16, 2026

School Districts Can Be Vicariously Liable When Students Are Sexually Abused by Their Employees

October 1, 2025

Court Rejects Qualified Immunity for Detectives Accused of Fabricating Evidence in 1978 Murder Case

September 24, 2025

Ordinance Enacted to Prohibit Cannabis Business in Asbury Park Does Not Rise to the Level of 'Shock the Conscience'

April 1, 2025

Court Affirms Dismissal of Lawsuit Over City Pothole Fall, Citing Lack of Evidence

March 11, 2025

NJ Appellate Division Expands OPRA Obligations: Custodians Must Disclose Non-Exempt Information to Avoid Attorney's Fees

December 1, 2024

Just Because You Expunge a Record Does Not Mean Internal Affairs Records Are Not Subject to an Open Public Records Act Request

November 13, 2024

OPRA Does Not Permit Waivers for Inability to Pay

October 1, 2024

Impounding a Vehicle Falls under Community Caretaking Exception to Fourth Amendment's Warrant Requirement and Is Not a Taking under Fifth Amendment.

September 27, 2024

Expungement Order Doesn't Block Request for Internal Affairs Report Under OPRA

June 7, 2024

Governor Murphy Signs New Law Changing the Open Public Records Act

February 20, 2024

Contrary Decisions Highlight Complexity of TCA Claims

July 5, 2023

Security Camera Video from Elementary School Had to Be Produced Pursuant to OPRA

July 1, 2023

Defendant did not have constructive notice of uncovered manhole to satisfy requirements of New Jersey Tort Claims Act.

March 30, 2023

Public Entity Required to Disclose Private Email Account Pursuant to an OPRA Request