

Lee C. Durivage

Chair, Employment Law

Chair, School Leaders' Liability

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Lee is a shareholder and the Chair of the Employment Law Practice Group, where he represents employers in the full spectrum of discrimination, harassment and retaliation claims, including claims pursuant to Title VII, the ADA public accommodation, the ADEA, the FMLA, whistleblower, housing discrimination and related tort claims. He is experienced in handling wage and hour lawsuits, including class and collective actions, pursuant to the FLSA, the Pennsylvania Minimum Wage Act and the Pennsylvania Wage Payment and Collection Law. Additionally, Lee serves as the Vice Chair of the firm's School Leaders' Liability Practice Group. He routinely defends school districts, charter schools and other academic institutions in civil rights litigation, as well as in special education due process matters alleging violations of the IDEA and related federal and state statutes.

Lee serves as lead counsel for clients from a wide range of industries, including construction, manufacturing, restaurant and hospitality, education, real estate development, health care and non-profit organizations. He has served as lead counsel in a number of employment litigation matters in federal court and state court, as well as before the Equal Employment Opportunity Commission and the Pennsylvania Human Relations Commission, the Philadelphia Commission on Human Relations. Additionally, Lee advises clients on how to avoid employment disputes altogether by counseling them on compliance with federal, state and local laws with respect to hiring, discipline, medical leave and terminations, as well as conducting workplace investigations and creating and updating employment policies and procedures to proactively manage employee relations.

In 2004, Lee graduated from Syracuse University with a double major in Communications & Rhetorical Studies and Political Science. Following graduation, he attended Widener University School of Law, receiving his juris doctor, cum laude, in 2007 and was awarded a Business Organization Law Certificate, with honors. During his time in law school, Lee served as an administrative board member of the *Delaware Journal of Corporate Law* and as a member of the Moe Levine Trial Advocacy Honor Society. He joined Marshall

Practices

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

Dennehey as a summer associate in May 2006 and continued to work with the firm during his final year of law school. Following graduation, Lee returned to the firm as an associate in August 2007.

In addition to his employment practice, Lee has experience litigating environmental, toxic tort and professional liability matters. He has been recognized as a Pennsylvania Super Lawyer: Rising Star by Philadelphia Magazine in the area of Employment Litigation: Defense in from 2012 through 2021. Rising Stars are chosen by their peers as being among the top-up-and-coming lawyers in Pennsylvania. Only 2.5 percent of Pennsylvania attorneys receive this honor each year.

Education

- Widener University Delaware Law School (J.D., *cum laude*, 2007)
- Syracuse University (B.S., 2004)

Admissions

- Pennsylvania, 2007
- U.S. District Court Eastern District of Pennsylvania, 2007
- U.S. District Court Middle District of Pennsylvania, 2014

Honors & Awards

- Pennsylvania Super Lawyers Rising Star (2012-2022)

Associations & Memberships

- American Bar Association
- Pennsylvania Bar Association
- Philadelphia Bar Association

Classes/Seminars Taught

- *Hot Topics in Employment Law*, PBA Law Firm Administrators Conference, April 30, 2025
- *EPL – You Have Headaches, We Have Solutions*, Public Risk Management Association Conference, Long Beach, CA, June 2023
- *Best Practices in Handling Employment Issues*, Motor Carrier Insurance Education Foundation, November 2015
- *EPL Training*, Berkley Mid-Atlantic Group, co-presenter, June 26, 2014
- *Social Media & Cyber Breaches: the Internet's Impact on Your Business*, The Graham Company, co-presenter, May 2014

Publications

- "The EEOC's Litigation Under the Pregnant Workers Fairness Act," *The Legal Intelligencer*, November 8, 2024
- "EEOC's Expansion of Accommodations Under the Pregnant Workers Fairness Act," *Pennsylvania Law Weekly*, December 13, 2023
- "The State of Class Action Waivers in Arbitration Agreements," *Pennsylvania Law*

Weekly, November 22, 2016

- "EEOC's Proposed Guidance Expands the Scope of Retaliation," *Legal Updates for Employment Law*, February 2016
 - "Avoiding Penalties When Classifying Independent Contractors," *The Legal Intelligencer*, Employment Law Supplement, June 30, 2015
 - "Pennsylvania Employment Law Update," *Counterpoint*, newsletter of the Pennsylvania Defense Institute, 2008-present
 - "Avoiding Age Discrimination Claims in Succession Planning," *The Legal Intelligencer*, June 11, 2013
 - "When Does Striving for a Health Workforce Violate the Law?," *The Legal Intelligencer*, June 12, 2012
 - "The Continued Expansion of the ADA: The Equal Employment Opportunity Commission's Updated Regulations In Light of the Americans with Disabilities Act Amendments Act," *Counterpoint*, newsletter of the Pennsylvania Defense Institute, Oct. 2011
 - "Undue Hardship: the Employer's Burden Under the ADAAA," *The Legal Intelligencer*, June 15, 2011
 - *Case Law Alerts*, regular contributor, 2008-2018
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Results

Defense Verdict Obtained in Two Consolidated Matters Following a Five-Day Trial

We obtained a defense verdict in two consolidated matters in the Eastern District of Pennsylvania following a five-day trial before Judge Gallagher. The first plaintiff alleged he was terminated in retaliation for filing a lawsuit and that he was subjected to racial discrimination during his employment. The second plaintiff alleged he was terminated in retaliation for supporting the wage and hour claims of the first plaintiff. After deliberating for approximately two hours, the jury answered "no" on the five theories asserted by the plaintiffs.

Unanimous Defense Verdict Secured in Fourth Amendment Civil Rights Trial

We obtained a defense verdict in a Fourth Amendment civil rights trial before Judge Michael Baylson in the Eastern District of Pennsylvania. The plaintiff alleged that a public agency violated his Fourth Amendment rights by searching and seizing his personal property after his vehicle was impounded. The defense witnesses each testified that the vehicle was never searched by the public agency and that the public agency does not have a policy or custom of searching vehicles once they are impounded, which was an essential element of plaintiff's constitutional violation claim. After less than 15 minutes of deliberation, the jury unanimously found that plaintiff failed to demonstrate that the public agency violated his constitutional rights, granting judgment in favor of the public agency defendant.

Thought Leadership

November 8, 2024

The EEOC's Litigation Under the Pregnant Workers Fairness Act

December 14, 2023

EEOC's Expansion of Accommodations Under the Pregnant Workers Fairness Act

June 1, 2023

On the Pulse... School Leaders' Liability Practice Group Provides Defense, Counseling and Training Services to School Districts, Public and Private Schools And Universities

March 1, 2023

The Federal Trade Commission's Proposed Evisceration of Non-Compete Agreements – What the Proposed Rule Means for Employers