



## Mark A. Konkel

Partner

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### About

A nationally recognized and respected advocate and advisor for employers across a broad spectrum of industries, Mark Konkel leverages his substantive legal knowledge and appreciation of employment relationship dynamics to keep his clients' greatest assets—their people—from becoming costly liabilities.

Chair of the firm's Labor and Employment practice, Mark has a long track record of winning judgments and dismissals in employment disputes, defeating certification of employment class actions, obtaining injunctions to prevent unfair competition, and creating effective strategies for responding to and working with organized labor.

His counseling on employment matters is practical, proactive, and grounded in each client's business and operational realities. Mark's clients know that when they have questions or concerns, he will be on the other end of the phone or in their offices with the answers and guidance they need. As one client told *Chambers USA: America's Leading Lawyers for Business*, Mark is "committed to achieving the best results for us. His only concern is serving his client."

Mark is an accomplished litigator with an impressive history of successfully defending companies in employment, labor, and commercial disputes in court, arbitration, mediation, and before governmental agencies. He wins superior results for his clients in disputes involving discrimination, breach of contract, organized labor, employee privacy, restrictive covenants and trade secrets, employment agreements, and class action claims.

Mark recognizes the costs and burdens that are often a byproduct of protracted litigation and endeavors to minimize the drag on his clients' businesses through clear, consistent communication and strategies that achieve positive outcomes with minimal disruption.

As leader of the firm's employment class action defense team, Mark routinely defeats class actions in state and federal jurisdictions across the country, reducing potentially large class actions into a manageable handful of easy-to-resolve individual claims.

When his clients draw unwanted governmental scrutiny, Mark guides them through sensitive internal and government investigations of discrimination, harassment, wage-and-hour violations, whistleblower issues, and ethics violations. He manages communications and public relations during an investigation to free his clients to focus on running their businesses while he focuses on

managing their risk.

Mark practices regularly before the National Labor Relations Board in regions across the United States. He works closely with leaders across industry sectors to develop and drive company-wide strategies for responding effectively to organized labor. His extensive experience in traditional labor law translates into a deep, practical knowledge of the real-world, real-time tactics that make a labor strategy effective. Mark also handles major collective bargaining, unfair labor practice charges, trials before the NLRB, and union organizing.

In his compliance counseling practice, Mark provides seasoned, strategic advice on HR law, discrimination law, employee privacy, protection of intellectual property, noncompetition agreements and other restrictive covenants, M&A transactions, and business expansions and reductions-in-force. Mark's clients appreciate his practical focus on their operational objectives, the economic and regulatory pressures they face, and his ability to help them recognize, understand, and address systemic risks and vulnerabilities. His counsel not only addresses immediate concerns but also considers the broader, long-term implications and impact of a given approach.

Mark's guidance and insights are also critical in significant corporate transactions, where he serves as lead labor and employment law counsel in mergers, sales, acquisitions, due diligence, and business consolidations. His transactions experience includes advising domestic and international enterprises on cross-border employment and labor issues.

Mark is a lead editor for Kelley Drye's [Labor Days](#) blog and a member of the Labor & Employment Sections of the American Bar Association, New York Bar Association, and the International Association of Privacy Professionals.

## Experience

Represented a global institutional investment firm in a successful ten day arbitration hearing regarding claims by a former employee, which resulted in an arbitrator dismissing all claims and awarding Claimant zero dollars from a demand of over \$27 million.

Won complete summary judgment in favor of a leading independent investment bank and financial advisory firm to defeat claims of alleged violations of a consulting agreement.

Leveraged arguments under labor agreements and federal law to reduce a putative class claim involving thousands of construction workers and alleged violations of multiple California wage-and-hour laws, resolving three related class actions for roughly 2% of their alleged value.

Defeated claims pursued by the New York State Department of Labor against a major U.S. insurer that its insurance agents were improperly classified as independent contractors rather than as employees. Given the centrality of the use of contractors to the insurer's business model and the difficult regulatory environment in the U.S. on independent contractor law, this was a bet-the-company win.

Defeated certification of a large alleged class of nursing assistants alleging widespread violations of wage-and-hour laws under federal and New York law in a litigation pursued against a preeminent New York medical institution. Mark and his team fought to significantly limit the scope of pre-certification discovery, saving the client from significant burden and cost.

Led an international team of lawyers in 25 jurisdictions across the world in a global project to

harmonize the policies, agreements and employment practices of a large multinational manufacturer.

Won complete summary judgment in federal litigation alleging race and national origin discrimination at a prominent medical center in New York. In an unusual opinion dismissing the case, the federal court noted in its dismissal order that a lengthy opinion was unnecessary and “would have been needlessly undertaken by the Court in a thinly disguised exercise in plagiarism” of Kelley Drye’s own motion papers.

Won a major arbitration in Texas pursued by a prominent U.S. labor union against large, multinational chemical manufacturer. The victory was unusual in that the union withdrew its claims in the middle of the arbitration hearing.

Defeated administrative claims of age discrimination pursued with the Texas Civil Rights Commission against a global provider of business process management and outsourcing solutions worldwide, and forced an early dismissal of a related employment arbitration.

Won outright dismissal of age discrimination claims pursued by a former employee against a prominent national investment banking and financial advisory services firm with the Ohio Civil Rights Commission.

Defeated claims of “reverse” race discrimination pursued by a Caucasian employee against a leading manufacturer of wind and solar energy infrastructure at the Florida Commission on Human Relations.

Defeated a race and gender discrimination claim filed with the District of Columbia Office of Human Rights, successfully limiting invasive demands for documents and information in a governmental investigation.

## Honors

Ranked in *Chambers USA* - Labor & Employment - New York, 2021-2023

Ranked in *The Legal 500* - Labor & Employment – Defense, 2021-2023

*Law & Politics Magazine* “Super Lawyer,” 2013, 2016-2023

*Super Lawyers* “Rising Star,” 2012

## Affiliations

American Bar Association

New York State Bar Association

International Association of Privacy Professionals

## Related Services

Employment Litigation

Labor and Employment Counseling and Compliance

Employment and Employee Benefits

Employee Benefits and Executive Compensation

Fashion and Retail

Generic Pharmaceuticals

Advertising Technology

Technology  
Environmental, Social and Governance (ESG)  
The Illinois Biometric Information Privacy Act (BIPA)  
Cannabis  
Organized Labor and Labor Relations

## Education

New York Law School, J.D., 2000

- magna cum laude
- New York Law School Journal of International and Comparative Law, executive notes and comments editor

Rutgers, The State University of New Jersey, M.A., 1997  
University of Florida, B.A., 1993

- summa cum laude

## Admissions

New York

## Courts

U.S. Court of Appeals–Second Circuit  
U.S. Court of Appeals–Third Circuit  
U.S. District Court–Southern District of New York  
U.S. District Court–Eastern District of New York