



Michael Sciotti

He | Him | His

Partner

Syracuse

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Education

- Syracuse University College of Law, *Summa Cum Laude*, LLM
- Syracuse University College of Law, *Cum Laude*, JD
- Rochester Institute of Technology, *Summa Cum Laude*, BA

Practices & Industries

- Cannabis
- Health & Human Services Providers
- Health Care
- Labor & Employment

Admitted to Practice

- New York
- District of Columbia
- US District Court for the Northern District of New York
- US District Court for the Southern District of New York
- US District Court for the Eastern District of New York
- US District Court for the Western District of New York
- US Court of Appeals for the Second Circuit
- US Supreme Court

Biography

Michael is a trusted advisor, trainer, and litigator to hundreds of employers on labor and employment matters. His practice includes defending employers, owners, and members of management in all types of discrimination, harassment, whistleblower, and retaliation claims brought under Title VII, ADEA, ADA, FMLA, GINA, NYS Human Rights Law, and Labor Law. Michael also defends wage-and-hour actions and claims, including class-action lawsuits, brought under federal and state law. He has tried nearly two dozen cases to verdict in federal and state court and before the NYS Division of Human Rights.

Michael also provides day-to-day counseling for employers on all aspects of labor and employment law and conducts internal investigations; audits; and supervisory and employee training, including sexual harassment-prevention training, on a regular basis. He has given over 700 labor and employment presentations to organizations that include the Society for Human Resource Management, the American Payroll Association, the American Corporate Counsel Association, the New York State Society of Certified Public Accountants, the Northern District of New York Federal Bar Association, the New York State Bar Association, and Lorman Education Services.

Bar Associations

- American Bar Association
- Northern District of New York Federal Court Bar Association, Pro Bono Committee Chair and Former President, Vice President, and Trustee
- New York State Bar Association, Labor Law Section
- Onondaga County Bar Association
- Washington DC Bar Association

Selected Memberships & Affiliations

- US District Court for the Northern District of New York, Alternative Dispute Resolution Committee Member and Court-Appointed Mediator
- American Payroll Association
- Society of Human Resource Management

Representative Experience

- Successfully defended a trucking company at trial and in the subsequent appeal to the NYS Supreme Court, Appellate Division, Third Department from an attempt by the NYS Department of Labor to reclassify 300 independent contractor truck drivers as employees.
- Resolved a highly contentious sexual-harassment claim for a physician group by convincing plaintiff's counsel to mediate as opposed to litigating. The claim was resolved much quicker and cheaper than if the matter had been litigated.
- Won a summary-judgment motion and subsequent appeal by the plaintiff to the US Court of Appeals for the Second Circuit for a large school district on an age-discrimination claim under federal law.
- Won an appeal before the NYS Supreme Court, Appellate Division, Fourth Department on behalf of an employer, dramatically reducing the sexual-harassment verdict rendered by the NYS Division of Human Rights.
- Tried a case in the US District Court for the Northern District of New York for a nursing home where the male plaintiff claimed he was a victim of workplace sexual harassment. The court dismissed all of the plaintiff's claims at the conclusion of his case under Rule 50(a) of the Federal Rules of Civil Procedure. The dismissal was subsequently affirmed by the US Court of Appeals for the Second Circuit.
- Resolved a dispute through negotiation for an employer where the NYS Workers' Compensation Board served an overbroad subpoena *duces tecum*.
- Served as mediator in a hotly litigated class-action lawsuit that resulted in a settlement after 18 hours of mediation.
- Successfully defended an employer from a workers' compensation discrimination claim tried before the NYS Workers' Compensation Board.
- Settled a series of claims for an employer brought by the Occupational Safety and Health Administration before the Occupational Safety and Health Review Commission.
- Handled numerous I-9 audits for employers.

- Obtained a no probable cause determination for a former employee in an age discrimination case before the NYS Division of Human Rights.
- Former employee filed sexual harassment claims (hostile work environment and quid pro quo) with the United States Equal Employment Opportunity Commission. After investigation, the United States Equal Employment Opportunity Commission concluded that there was insufficient evidence to establish a violation of Title VII of the Civil Rights Act.
- Represented a barbeque restaurant in a lawsuit filed by a former employee alleging sex and sexual orientation discrimination, sexual harassment, and retaliation. After the conclusion of discovery, the restaurant moved for summary judgment, and the court granted summary judgment in full.
- Represented an autism services provider being charged for allegedly violating Section 8(a)(1) of the National Labor Relations Act (NLRA) by terminating an employee in retaliation of the employee's protected concerted activities. After investigation, the National Labor Relations Board (NLRB) found no evidence of concerted activities nor animus toward individual concerns the complainant expressed about staffing and other workplace issues. The NLRB found that our client discharged the complainant because she refused to sign a performance improvement plan.
- Represented a barbeque restaurant when a verified complaint was filed with the New York State Division of Human Rights (NYSDHR) and the United States Equal Employment Opportunity Commission (EEOC) claiming unlawful discriminatory practices relating to employment because of gender identity expression, race and color, sex, sexual orientation, and domestic violence victim status. After investigation, the NYSDHR concluded there was no probable cause that the discrimination occurred and dismissed the matter. The EEOC adopted the findings of the NYSDHR and dismissed the federal claims. The complainant was not employed by the barbeque restaurant, but rather was employed by a food ordering and delivery company and was arguing that he should be considered an employee of the barbecue restaurant.

Prior Experience

- Hiscock & Barclay, LLP, Partner
- Hancock Estabrook, LLP, Partner
- AWI Environmental Services, Inc., General Counsel and Human Resources Director
- Paravati, Karl, Green & Eisenhut, LLP, Associate

Selected Community Activities

- Rochester Institute of Technology Alumni Network, Board of Directors Member
- Rochester Institute of Technology, Capital Campaign Committee Member
- Syracuse University College of Law, Former Associates Council Advisory Board Vice Chair
- The Hemophilia Connection, Former Board of Directors Member
- Meals on Wheels of Syracuse, Former Board of Directors Member

Selected Honors

- *The Best Lawyers in America*®: Employment Law – Management, Labor Law – Management, and Litigation – Labor and Employment, 2011–2021
- Northern District of New York Federal Court Bar Association, Pro Bono Award, 2019
- Selected to *Super Lawyers* Upstate New York: Employment Litigation: Defense, 2019–2020; Employment & Labor, 2007–2018, 2021
- *The Best Lawyers in America*®, Syracuse Lawyer of the Year: Employment Law – Management 2015–2016
- *The Best Lawyers in America*®, Syracuse Lawyer of the Year: Labor Law – Management, 2014 and 2016

Selected Speaking Engagements

- American Payroll Association New York State Conference Keynote Address, “New York State’s Sexual Harassment Prevention Law”
- Cornell Cooperative Extension, Agricultural Workforce Development Program, “Wage & Hour Laws Impacting Agricultural Employers”
- Society of Human Resource Management, “New York State Paid Family Leave Act”
- Gilroy, Kernan & Gilroy, Inc., “Salary History Discrimination”
- Chemung County Chamber of Commerce, “Sexual Harassment Training - Education, Prevention, and Investigation: The Trifecta of a Defense”

Selected Publications & Media

- *Buffalo Law Journal*, “New York Enacts Sweeping Sexual Harassment Legislation”
- American Bar Association, *The Fair Labor Standards Act 2005-2007 Cumulative Supplement*, Contributing Editor
- New York State Bar Association Labor & Employment Newsletter, “The NYS Flag Discrimination Statute”
- *NY Litigator*, “Sexual Harassment: To What Extent Need the Conduct Be Sexual in Nature”
- *USLAW Magazine*, “When an Employee Transitions: What Every Employer Should Know”

Selected Alerts & Blog Posts

- Pre-Employment Marijuana Testing Ban Goes Into Effect in New York City
- Pre-Employment Drug Testing and Marijuana
- Adult-Use Cannabis and the Workplace: Time to Revisit Employment and Drug-Testing Policies
- Component 2 EEO-1 Online Filing System Update
- EEO-1 Component 2 Data Update