

Kimberly Anne Capadona



Partner

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(201) 342-6000

Hackensack, NJ

Practice Areas

Labor & Employment Law

Trade Secret Protection and Non-Compete

Workplace Training Resources

Admitted

New Jersey

United States Court of Appeals for the Third Circuit

Education

Seton Hall University

Bachelor of Arts, Political Science

Seton Hall University School of Law

Juris Doctor

Kimberly advises clients on all aspects of employment law and labor relations. Her broad range of experience includes nationwide representation of employers in wage and hour matters, injunctions, and employment harassment and discrimination claims involving sex, race, age, citizenship, religion, handicap or sexual orientation. Kimberly regularly provides defense against actions for wrongful discharge, harassment, retaliation, breach of contract, violation of family leave, whistleblower and related torts including defamation, tortious interference and intentional infliction of emotional distress before Federal and State courts and administrative agencies, which includes the defense of charges filed with the U.S. Equal Employment Opportunity Commission and Financial Industry Regulatory Authority (FINRA) arbitrations. She represents employers' interests with respect to investigations conducted by the U.S. Department of Justice into discriminatory employment practices. She also handles cases involving Fair Labor Standards Act collective actions and Rule 23 class actions. Kimberly has defended employers' interests in unfair labor practice and 10(k) proceedings before the National Labor Relations Board, as well as compliance specifications hearings. She frequently represents management in insurance-covered litigation and is well-versed in the various issues that arise in such litigation.

In addition to her litigation practice, Kimberly regularly advises in-house counsel, human resources managers and risk management professionals on Federal and State labor and employment laws. She frequently assists such professionals in establishing and implementing policies, procedures and decisions regarding all aspects of the employment relationship including hiring, firing, promotions, compensation, benefits, leaves, reasonable accommodations and the investigation of harassment and discrimination claims. Kimberly prepares employee handbooks and policies, employment contracts and other agreements such as confidentiality, non-compete and severance agreements. She also assists employers involved in audits conducted by the Federal and State labor departments, as well as I-9 audits by the U.S. Department of Homeland Security.

Representative Experience

Examples of labor and employment matters handled by Kimberly include:

- Obtained summary judgment on behalf of a hospital in a federal lawsuit alleging race and color discrimination.
- Obtained, on behalf of an information technology staffing agency, a finding of "no cause" in a national origin discrimination charge filed with

the United States Department of Justice.

- Obtained a “no probable cause” determination, on behalf of a condominium association, in a disability discrimination matter filed by a resident.
- Obtained, on behalf of an information technology staffing agency, the dismissal of a discrimination charge, alleging race and age discrimination, and retaliation.
- Successfully appealed, on behalf of an information technology company, the liability determination by the United States Department of Labor of back wages owed to H-1B employees, resulting in a reduction of liability of more than \$280,000.00
- Obtained an order granting summary judgment on behalf of a national retailer in a whistleblower matter
- Represented employer of a web-based business in a company-wide wage and hour audit resulting in a determination of no liability
- Obtained a “no probable” cause determination, on behalf of a wholesale distributor, in a sexual harassment matter that was filed by a former employee
- Won the dismissal with prejudice, on behalf of a State transportation authority, of a complaint by a former employee alleging violations of the Family and Medical Leave Act
- Obtained the dismissal, on behalf of a Head Start program, of an unfair labor practice charge filed by the employees’ union
- Obtained a “no probable cause” determination, on behalf of a not-for-profit healthcare facility, in a racial discrimination matter filed by a former employee
- Successfully defended employers in hearings before the New Jersey Department of Labor and Workforce Development seeking unpaid wages, which resulted in “no liability” determinations

Professional And Community Involvement

- Member, New Jersey State Bar Association
- President, Seton Hall University Alumni Board of Directors
- Member, Seton Hall University Board of Regents
- Member, Association of Governing Boards of Universities and Colleges

Additional Community Service

- Served on various committees for Seton Hall University and Seton Hall University School of Law
- Participates in the Mentorship Program of the Seton Hall University Student Alumni Association

Articles

- “The Scope of Title IX Protection Gains Yardage as Courts Continue to Tackle the Contact Sports Exception,” Seton Hall Journal of Sport Law (10 Seton Hall J. Sport L. 415 (2000)).

- Speaker, Labor & Employment Law Update: Independent Contractor vs. Employee: Are You Misclassifying Your Workers? (December 2011)
- Guest lecturer for various classes in areas of Labor & Employment Law, Felician College (2008,2009,2010) and Rutgers University School of Law (2012)
- "No, Boss, We Cannot Be Facebook Friends!" (New Jersey Law Journal, December 2012)