

Rob Weissflach has extensive experience in federal and state court litigation, as well as administrative proceedings, involving labor and employment matters on behalf of public and private employers. Rob's experience includes jury trials in both federal and state court, as well as appellate practice at all levels of the federal and state court systems. Rob also provides day-to-day advice to employers concerning their employment policies, procedures, and practices.

## Representative Experience

The following illustrates Rob's broad practice:

- Successfully defeated class certification in a wage and hour class and collective action alleging violations of, inter alia, the Fair Labor Standards Act (FLSA), the Migrant and Seasonal Agricultural Worker Protection Act, and the New York Labor Law.
- Successfully obtained a jury verdict in federal court in favor of an employer and four individual defendants accused of race and disability discrimination and harassment.
- Obtained summary judgment in a sexual harassment case arising out of the collapse of a workplace romance, and successfully moved to have the report and testimony of the plaintiff's forensic psychologist excluded and then convinced the Court, principally with archived emails, that the relationship at issue was consensual as a matter of law.
- Obtained summary judgment for a school district in a case claiming violations of equal protection and due process.
- In the first reported case of its kind, successfully argued in New York appellate court that the reclassification of certain employees for workers' compensation purposes was arbitrary and capricious.
- In the first reported case of its kind, successfully argued in New York appellate court that substantial penalties against an out-of-state trucking company for lack of New York workers' compensation insurance should be annulled.
- Defense of national and regional employers charged with race, sex, age, disability and/or national origin discrimination or harassment and/or retaliation.
- Defense of employers faced with claims of breach of contract or wrongful discharge, or related torts, including defamation, as well as in non-competition, confidentiality, and other employment contract disputes.
- Representation of employers and/or benefit plans in ERISA litigation.
- Representation of employers in collective bargaining, grievance/arbitration proceedings, and NLRB or PERB proceedings.



ROBERT C. WEISSFLACH

PARTNER

rweissflach@hselaw.com

tel: 716.844.3707

fax: 716.853.1617

## Admissions

New York  
 New York State courts  
 U.S. Supreme Court  
 U.S. Court of Appeals for the Second and Ninth Circuits  
 U.S. District Court for the Central District of Illinois  
 U.S. District Court for the Eastern, Western, Northern, and Southern Districts of New York  
 Admitted to practice in particular cases in the States of Illinois and New Jersey; as well as the U.S. District Courts for the Northern District of Illinois, Central District of California, Middle District of Tennessee, Southern District of Florida, the Western and Middle Districts of Pennsylvania, and the District Court of Maryland

## Education

Cornell Law School, J.D., *cum laude*  
 University of Rochester, M.A., Political Science  
 University of Rochester, B.A., Political Science, *cum laude*

- Defense of employers against individual and collective wage and hour claims or other employment-related class actions.
- Representation of employers with respect to OSHA inspections and citations.

## Honors and Awards

- Named as *Best Lawyers*® 2020 Litigation - Labor and Employment “Lawyer of the Year” in Buffalo, NY
- Named as *Best Lawyers*® 2019 Employment Law - Management “Lawyer of the Year” in Buffalo, NY
- Named as *Best Lawyers*® 2018 Labor Law - Management “Lawyer of the Year” in Buffalo, NY
- Named as *Best Lawyers*® 2017 Litigation - Labor and Employment “Lawyer of the Year” in Buffalo, NY
- Named as *Best Lawyers*® 2015 Litigation - Labor and Employment “Lawyer of the Year” in Buffalo, NY
- Named as *Best Lawyers*® 2013 Labor Law - Management “Lawyer of the Year” in Buffalo, NY
- Selected by his peers for inclusion in *The Best Lawyers in America*® in the fields of Commercial Litigation, Education Law, Employment Law - Management, Labor Law - Management, ERISA Litigation, and Labor and Employment Litigation.
- AV Preeminent® Peer Review Rated by Martindale-Hubbell
- Legal Elite of Western New York, *Buffalo Business First/Buffalo Law Journal*, 2016
- Who’s Who in Law, *Business First of Buffalo/Buffalo Law Journal*, 2010, 2011, 2012

## Presentations

- Presenter, “Employment Litigation War Stories and How to Avoid Them,” Harter Secrest & Emery’s Labor and Employment Law Conference, April 26, 2018
- Presenter, “Labor and Employment Best Practices: Restrictive Covenants and Workplace Harassment,” Niagara Frontier Corporate Counsel Association, Inc. (NFCCA), March 8, 2018
- Presenter, “Documenting the Employment Relationship: Best Practices From Hire through Termination,” Harter Secrest & Emery’s Labor and Employment Law Conference, April 5, 2017

