

Donald W. Schroeder

Partner

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Donald (Don) Schroeder is a partner and labor and employment attorney with Foley & Lardner LLP. He has extensive trial experience in both state and federal courts, where he focuses on representing Fortune 500 clients on matters, including restrictive covenant litigation, wage and hour class actions, and single plaintiff discrimination cases. Don's trial experience includes a number of federal and state court jury trials involving claims under Title VII, the Americans with Disabilities Act (ADA), Age Discrimination in Employment Act (ADEA), and the Massachusetts antidiscrimination statute (M.G.L. ch. 151B). Additionally, Don regularly handles traditional labor matters (focusing on the management side) for clients, including union avoidance training, unfair labor practice proceedings, union elections, mass picketing, 10(j) injunction proceedings, labor arbitrations, and collective bargaining negotiations.

Representative Experience

Litigation Matters

- Secured complete defense verdict for the largest U.S. staffing firm on all counts (sexual harassment/retaliation) in a federal court jury trial in Pittsburgh, Pennsylvania.
- Represented an international soccer agency in restrictive covenant litigation against former employees, resulting in a six-figure settlement.
- Acted as an in-house labor and employment attorney for a client's assistant general counsel for approximately four months. Provided personnel advice on a daily basis for a national union/non-union workforce of approximately 10,000 employees.
- Defeated a six figure wage claim filed against a national mental health system by its former chief financial officer.
- Obtained dismissal for a publicly traded venture capital firm in a high-profile sex discrimination litigation by demonstrating absence of "single employer" status, despite the firm's substantial monetary investment in co-defendant subsidiary (reported at 17 F. Supp. 2d 357).

- Secured a favorable compliance ruling on behalf of a national coffee and bar establishment in a Federal Department of Labor wage and hour investigation.
- Successfully represented employers in numerous summary judgment proceedings, including a favorable ruling on behalf of a national insurance company in a sexual harassment suit (reported at 1997 WL 634601).

Traditional Labor Experience

- Represented an internationally recognized music school in an extensive NLRB investigation, which resulted in the dismissal of over 30 unfair labor practice charges filed by faculty union.
- Achieved dismissal of numerous unfair labor practice charges (Regions 4, 5, 6, and 22) filed against a national client during a union organizing campaign.
- Provided advice regarding a client's implementation of initial collective bargaining agreements in 21 bargaining units located in the Mid-Atlantic and New York regions.
- Conducted injunction proceedings before a three-judge panel in Suffolk County Superior Court during a 2000 strike involving more than 12,000 employees in Massachusetts.
- Represented a national building maintenance company in a recent work stoppage involving 10,000 employees in downtown Boston.
- Successfully defeated an election petition brought in an isolated facility for a national tire manufacturer with more than 30 non-union facilities throughout the United States.
- Assisted in obtaining dismissal of an election petition where a union had already initiated the process under the parties' card check and neutrality agreement (reported at 335 NLRB 658).
- Successfully ended illegal picketing waged against a national non-union roofing company.

Wage and Hour Class Action Experience

- Represented the largest U.S. staffing firm, with respect to a nationwide wage and hour class action involving alleged non-payment of overtime and training time wages to temporary pickup and delivery drivers. Following a series of procedural substantive motions, the federal court rejected the pursuit of nationwide claims, ruling that (1) the potential "opt-in" class under the FLSA should be limited to the New England region; and (2) the state law claims could only be pursued in the states of the named plaintiffs (Massachusetts and Vermont). In an important ruling for the entire staffing industry reported by *Law360* (the only other reported case on the issue was from the 3rd Circuit in 1970), the court ruled that the Federal Motor Carrier Act overtime exemption not only applied to the motor carrier (FedEx), but also to the co-defendant temporary staffing firms. As a result, the plaintiffs' overtime claims were dismissed altogether.
- Defended a national animal health diagnostics company in a purported class action, alleging violations of the Massachusetts Independent Contractor Law and various Massachusetts wage-and-hour laws. Following the court's final approval of the class action settlement, an independent settlement was reached whereby the co-defendant (staffing firm) accepted responsibility for more than 75 percent of the monetary cost of class action settlement.

Awards and Recognition

- Selected by his peers for inclusion in *The Best Lawyers in America*® in the fields of Litigation-Labor and Employment (2023-2024) and Labor Law – Management (2024)
- Recognized by *Chambers USA: America's Leading Lawyers* for his work in Labor and Employment (2012 – Present)
- Selected for inclusion to the Massachusetts Super Lawyers list (2012 – Present)

Community Involvement

- Member, Board of Trustees for Saint Peter's Preparatory School in Jersey City, New Jersey (2006 – 2013)
 - Since that time, Don has served as the general counsel for Saint Peter's
- Member, Board of Governors for Longy School of Music of Bard College

Presentations and Publications

- Don is a frequent lecturer and author on a variety of employment law issues, including the Americans with Disabilities Act, Family and Medical Leave Act, NLRB developments, and workplace privacy issues. He has also been interviewed on labor and employment issues by various national and local media outlets, including CNN, Fox News, the *Wall Street Journal*, *Corporate Counsel*, the *Boston Globe*, the *New York Times*, *Bloomberg Financial*, the *Associated Press*, and *Law360*.
- Presenter, "COVID19: What Healthcare HR Professionals Need to Know," Webinar Series—Webinar 2 (April 6, 2020)

Sectors

- Food & Beverage
- Health Care & Life Sciences
- Innovative Technology
- Racial Justice & Equity
- Sports & Entertainment

Practice Areas

- Labor & Employment
- Litigation

Education

- Catholic University of America (J.D., 1994)
 - Member, *Catholic University Law Review*
- College of the Holy Cross (B.A., 1991)

Admissions

- Massachusetts

- Illinois
- Pennsylvania