



Daniel P. Forsyth

Member

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Profile

Daniel is a labor and employment law attorney.

He represents employers in National Labor Relations Board proceedings including unfair labor practice charges and over 30 union organizing campaigns. Daniel has extensive union experience in: labor arbitration, collective bargaining, jurisdictional disputes, strike preparation, strikes, slowdowns, reaching impasse, reserved gates, salting, decision & effects bargaining, decertification, deauthorization, lockouts, picketing, double-breasting, responding to union information demands, successorship, accretion, card signing and NLRB injunctions.

Daniel regularly appears before various federal and New York state agencies, including the U.S. Equal Employment Opportunity Commission, U.S. Department of Labor Wage and Hour Division, OSHA, New York State Division of Human Rights, New York State Department of Labor and New York State Workers' Compensation Board.

He practices at all levels of state and federal courts in litigation involving: employment discrimination, wrongful discharge, restrictive covenants, motions to stay/compel arbitration, motions to vacate/confirm arbitration awards, duty of fair representation and injunctions.

Daniel advises clients on: litigation avoidance, reductions in force (RIF's), transfer of bargaining unit work, managing medical leaves of absence, discipline point systems, absenteeism, tardiness, drug & alcohol testing, severance agreements, performance improvement programs (PIP's), reasonable accommodation of disabled workers, last chance agreements, promotion/demotion, light duty, unemployment insurance, performance appraisals, pregnancy, workplace investigations, employee surveillance, wage & hour issues, subcontracting, discipline & documentation, off-duty misconduct, constructive discharge, employment torts, independent contractor status, plant closings, sexual harassment, layoff/recall, employee handbooks, whistleblowing, avoiding retaliation, mandatory arbitration/class action waiver agreements, ban-the-box, background checks, conviction history and misclassification of exempt status.

As chief spokesman in collective bargaining, Daniel has successfully negotiated labor contracts with the: Carpenters, CWA, Teamsters, UAW, United Steelworkers, IUOE, Printing Pressman, SEIU, Metal Polishers, Diocesan Elementary Teachers Association and CSEA.

Education

- University at Buffalo School of Law (J.D. 1981)
- Cornell University (M.I.L.R. 1978)
- Dartmouth College (B.A., *cum laude*, 1976)

Bar/Court Admissions

- New York
- U.S. Court of Appeals for the Second Circuit
- United States District Court for the Western District of New York

Practices

- Labor and Employment

Daniel is an instructor for Cornell University's School of Industrial and Labor Relations.

He is a frequent lecturer on employment and labor law topics before various groups including the: New York Management Attorneys Conference, Erie County Bar Association, New York State Bar Association, Canisius College, Niagara University, Olean Area Industrial Management Council, Labor and Employment Relations Association, New York State Department of Labor, American Arbitration Association, Job Service Employer Committee, Council on Education in Management, Society for Human Resource Management, New York Employee Benefits Conference, Lorman Education Services, ADP Workplace Blueprints, Sterling Educational Services, National Business Institute, National Human Resources Association – WNY and Chautauqua Works.

As labor counsel to four multi-employer groups in the construction industry, Daniel advises on a board array of union issues for Western New York's largest general construction association as well as more specialized groups in the fields of insulation, millwright-work and utility/site development.

For both prominent Buffalo radiology and pediatric medical practices, Daniel advises and represents these groups on issues relating to employment contracts, restrictive covenants, owner/employee status, partner disputes and retirement.

Daniel managed the Buffalo office from 2012 – 2015 and following the largest merger in Bond's history with Jaeckle, Fleischmann and Mugel, LLP in 2016, was co-manager in 2016.

Honors & Affiliations

- Listed in:
 - *The Best Lawyers in America*® 2022, Employment Law - Management; Labor Law - Management; Litigation - Labor and Employment (listed for 28 years)
 - *Best Lawyers' 2016 Buffalo Litigation - Labor and Employment Lawyer of the Year*
 - *Best Lawyers' 2015 Buffalo Labor Law - Management Lawyer of the Year*
 - *Best Lawyers' 2014 Buffalo Employment Law - Management Lawyer of the Year*
 - *Buffalo Business First*, Legal Elite of Western New York, 2016-2019 Legal Elite
 - *Martindale-Hubbell*®, AV Preeminent Rated (listed for 19 years)
 - *New York Super Lawyers 2021*®, Employment and Labor (listed for 15 years)
- American Bar Association, Labor and Employment Law Section
- New York State Bar Association, Labor and Employment Law Section
- Erie County Bar Association, Labor and Employment Law Section
- New York Management Attorneys Conference
- Senior Editor, *Buffalo Law Review*

Representative Matters

- Successfully represented a national concrete cutting company before the NLRB in a jurisdictional dispute between the Laborer's and Operating Engineer's unions,

resulting in an award of the work to the client-preferred Laborers.

- Prepared over 50 drug testing policies in compliance with: collective bargaining agreements, various state laws and U.S. Dep't of Transportation regulations. Successfully defended related policy and discipline cases in: Federal District Court, labor arbitration, unemployment insurance hearings and before the NLRB.
- As chief spokesperson at labor negotiations, when agreement could not be reached, on multiple occasions successfully implemented the employers' final offer and obtained dismissal of the unions' ULP charge after investigation by the NLRB.
- In cases for both a national equipment manufacturer and a regional chain of pharmacies, counseled the employers on the transfer of bargaining unit work and facility shutdown, and secured dismissal of related NLRB charges after investigation.
- Won summary judgment for a national chemical manufacturer before the Second Circuit Court of Appeals in a complex case with age, F.M.L.A. disability discrimination and retaliation claims.
- Extensive experience advising employers on lengthy medical leaves of absence and intermittent leave in accord with the: A.D.A., F.M.L.A., N.Y. Human Rights Law, N.Y. Paid Family Leave Act, N.Y. Workers' Compensation Law, N.Y. Disability Law, collective bargaining agreements and individual employment contracts.
- Reviewed and revised over 50 employee handbooks.
- Won summary judgment in Buffalo Federal District Court for a regional trucking company, successfully vacating a labor arbitrator's adverse decision on the shutdown of a terminal.
- Won summary judgment in Buffalo Federal District Court for a national transportation company, successfully dismissing a union employee's challenge to his discharge for a positive drug test.
- Extensive experience advising both buyers and sellers on asset purchase agreements and acquisitions relating to union successorship, alter ego and adoption or avoidance of collective bargaining agreements and union recognition.
- Advised numerous clients on strike preparation, work stoppages and brought related N.Y. Labor Law § 807 injunction proceedings against various unions for mass picketing, blocking property ingress/egress and violence.
- Obtained dismissal of an OSHA 11(c) whistleblower claim following investigation for a regional federal contractor in the education and training field.

Representative Presentations

- Avoiding Legal Pitfalls in Interviewing & Hiring, Chautauqua Works, November 21, 2019
- Hot Employment Law Issues for 2019, National Human Resources Association of WNY, November 13, 2019
- Effective Workplace Investigations, National Human Resources Association of WNY, June 6, 2019
- Hot Employment Law Issues for 2019, Chautauqua Works, May 30, 2019

- Employment Law Update, Chautauqua Works, November 29, 2018
- Employment Law Update, National Human Resources Association of WNY, November 7, 2018
- Intermittent Leave, Bond Schoeneck & King Labor and Employment Law Seminar, October 16, 2018
- Navigating Sexual Harassment in an Evolving Legal & Cultural Landscape, Chautauqua Works, May 3, 2018
- The New York Paid Family Leave Law – Are you ready for January 1, 2018?, Chautauqua Works, November 9, 2017
- The New York Paid Family Leave law is here. Are you ready?, National Human Resources Association of WNY, October 19, 2017
- It's Only a Matter of "Time" – Avoiding Common Wage and Hour Mistakes, Bond Schoeneck & King Workplace Seminar, June 20, 2017
- Progressive Discipline, Documentation and Effective Terminations, Chautauqua Works, April 20, 2017
- The New FLSA White Collar Exemptions & Overtime Rules, National Human Resources Association of WNY, November 16, 2016
- The New FLSA White Collar Exemptions & Overtime Rules – Ready for December 1st ?, Chautauqua Works, November 10, 2016
- Managing Medical Leaves of Absence – How to Navigate Federal and State Laws, National Human Resources Association of WNY, May 17, 2016
- Managing Medical Leaves of Absence - How to Navigate Federal and State Laws, Chautauqua Works, April 28, 2016
- 15 Employment Law Mistakes HR Cannot Afford to Make, National Human Resources Association of WNY, November 17, 2015
- Workplace Investigations, Chautauqua Works, November 5, 2015
- Best Practices for Managing Employee Termination, Bond Schoeneck & King Workplace Seminar, June 30, 2015
- Employee Handbooks - 15 Key Provisions and the Legal Principles Behind Them, Chautauqua Works, March 26, 2015
- 15 Critical Errors Employers Make in Employment Law, Chautauqua Works, November 6, 2014
- Union Shop or Not – How the NLRB's New Playbook Affects You, Bond Schoeneck & King Workplace Seminar, June 12, 2014
- N.Y.S. Unemployment Insurance Law: the New Reforms and a General Overview, Chautauqua Works, March 27, 2014
- Understanding Key Differences Between the Fair Labor Standards Act and New York Labor Law, Bond Schoeneck & King Workplace Seminar, June 13, 2013

Other Activities

- Artpark & Company, Inc., Board Member
- Heart, Love and Soul, Inc., Director
- Cornell University's School of Industrial and Labor Relations, Instructor
- National Human Resources Association – WNY Chapter, Founding Member, Board of Directors, Co-Director for Programs and Professional Development,

- Dartmouth Club of Western New York, President
- Niagara Falls Festival of Lights, Auction Executive Committee
- Stella Niagara Education Park, Vice President and Board of Directors