



## Jessica C. Moller

### Member

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### Profile

**As a management-side employment counselor and litigator, Jessica provides clients with the perceptive, caring and zealous representation that they deserve. Counseling clients on how to effectively navigate the web of employment laws, she successfully breaks down complicated legal requirements to an understandable level for her clients. When her clients are faced with litigation, Jessica's thorough preparation, calm demeanor and ability to think outside the box routinely achieve positive results.**

Jessica has successfully represented employers in federal and New York State court in employment discrimination and retaliation cases involving claims under the civil rights statutes, and obtained dismissal of employee claims of race, gender, age, disability, national origin and religion discrimination, and retaliation under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), the Family and Medical Leave Act (FMLA), New York State Human Rights Law (NYSHRL) and New York City Human Rights Law (NYCHRL).

She has similarly obtained dismissal for employers of wage and hour claims under the Fair Labor Standards Act (FLSA) and New York Labor Law, invasion of employee privacy and constitutional claims (including due process, equal protection, free speech and retaliation under the First Amendment), and has successfully represented municipal employers in CPLR Article 78 proceedings brought by former employees challenging the termination of their employment. Jessica also routinely defends employers in administrative proceedings, including civil rights proceedings before the New York State Division of Human Rights (SDHR), the New York City Commission on Human Rights, and the U.S. Equal Employment Opportunity Commission (EEOC).

In addition to her litigation practice, Jessica also serves as counselor for public and private sector employers advising on general day-to-day employment matters. She routinely assists employers in complying with the various employment statutes and related matters, including COVID-19 compliance, New York Paid Family Leave (PFL), the Family Medical Leave Act (FMLA), Americans with Disabilities Act (ADA) and Fair Labor Standards Act (FLSA). Jessica also often serves as an impartial investigator of discrimination and harassment complaints, and reviews and revises employee handbooks and employment policies to ensure compliance with applicable laws.

### Education

- Albany Law School (J.D., *magna cum laude*, 2006)
- University of Delaware (B.A., *cum laude*, 2003)

### Bar/Court Admissions

- New York
- Connecticut
- U.S. Court of Appeals for the Second Circuit
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Western District of New York

### Practices

- Higher Education
- Labor and Employment
- Litigation
- School Law
- Health Care

## Honors & Affiliations

- Listed in:
  - *New York Metro Super Lawyers®*, New York Metro Rising Star, Employment & Labor, 2015-2021, 2024
- New York State Bar Association (NYSBA)
  - Labor and Employment Law Section;
  - Commercial and Federal Litigation Section, Secretary;
  - Diversity and Inclusion Committee
- Women's Bar Association of the State of New York (WBASNY), former Delegate
- Nassau County Women's Bar Association (NCWBA), former Vice President and Recording Secretary, former Board Member
- Nassau County Women's Bar Foundation, Director and Past President
- Suffolk County Bar Association (SCBA)
- *Long Island Business News*, 2021 Who's Who in IP & Labor Law
- *Long Island Business News*, Leadership in Law, 2019
- Hofstra University School of Law, 2016 Top Women in Law
- *Long Island Press*, 2017 Long Island Power Women in Business Honoree
- *Long Island Business News*, Top 50 Women in Business, 2017
- *Long Island Business News*, 2016 Top 50 Most Influential Women in Business
- *Long Island Business News*, 2015 40 Under 40
- *Long Island Business News*, 2015 Who's Who in Women in Professional Services
- *Long Island Business News*, 2013 Who's Who of Professional Women
- *Long Island Business News*, 2012 Who's Who of Professional Women
- Associate Editor, *Albany Law Journal of Science and Technology*, 2005-2006
- Recipient, Judge Bernard S. Meyer Scholarship, 2005

## Representative Matters

### Federal Cases

- *Lauren O' Neill v. Dataminr, Inc.*, 15-cv-09485 (JGK) (S.D.N.Y. December 2017) – served as trial counsel for employer and obtained a unanimous jury verdict for the employer dismissing sex/gender discrimination and retaliation claims asserted by a former employee
- *Anderson v. National Grid PLC*, 93 F. Supp. 3d 120 (E.D.N.Y. 2015) – obtained dismissal for employer of employee's disability discrimination and retaliation claims relating to the termination of his employment and alleged denial of reasonable accommodation
- *Pierre v. ArchCare, Inc.*, 2015 U.S. Dist. LEXIS 2862 (S.D.N.Y. 2015) – obtained dismissal for employer of terminated employee's age and disability discrimination claims, retaliation claims, and claims she was denied reasonable accommodation for her disability during her employment

- *Setelius v. National Grid Electric Services LLC*, 2014 U.S. Dist. LEXIS 134789 (E.D.N.Y. 2014) – obtained summary judgment for employer in case involving gender discrimination, sexual harassment and retaliation claims
- *Daudier v. E&S Med. Staffing, Inc.*, 2013 U.S. Dist. LEXIS 116150 (S.D.N.Y. 2013) – obtained summary judgment for defendant in case involving racial discrimination conspiracy claim
- *Ochei v. The Mary Manning Walsh Nursing Home Co.*, 2013 U.S. Dist. LEXIS 71498 (S.D.N.Y. 2013) and 2011 U.S. Dist. LEXIS 20542 (S.D.N.Y. 2011) – obtained dismissal of pro se plaintiff's discrimination, harassment, FLSA, retaliation and breach of contract claims against employer
- *Beale v. City of Mount Vernon*, 895 F. Supp. 2d 576 (S.D.N.Y. 2012) – obtained summary judgment for employer in case involving claims for sexual harassment and retaliation
- *Carroll v. City of Mount Vernon*, 2011 WL 6759597 (2d Cir. 2011) *affirming* 707 F. Supp. 2d 449 (S.D.N.Y. 2010) – obtained summary judgment for employer of reverse race discrimination case
- *Mosby v. William Floyd Union Free School District*, 363 Fed. Appx. 788, 2010 U.S. App. LEXIS 17110 (2d Cir. 2010) – obtained dismissal for employer in case involving failure to promote race discrimination, hostile environment and retaliation claims
- *Capone v. Weeks*, 326 Fed. Appx. 46 (2d Cir. 2009), *on remand* 2010 WL 2771845 (E.D.N.Y. 2010) – obtained dismissal of case against individual defendant with a complete fee shift against plaintiff's counsel for pursuing frivolous litigation
- *Hammond v. Keyspan Energy*, 349 Fed. Appx. 629, 2009 U.S. App. LEXIS 22997 (2d Cir. 2009) *affirming* 2009 U.S. Dist. LEXIS 127205 (E.D.N.Y. 2009) – obtained summary judgment for employer in case involving disability discrimination claim
- *DeVittorio v. Hall*, 347 Fed. Appx. 650; 2009 U.S. App. LEXIS 21420 (2d Cir. 2009) *affirming* 589 F. Supp. 2d 247, 2008 U.S. Dist. LEXIS 99830 (S.D.N.Y., 2008) – obtained summary judgment for employer on employee invasion of privacy claims

#### New York State Cases

- *Trinidad v. Mary Manning Walsh Nursing Home*, 2019 N.Y. Misc. LEXIS 3245 (Supreme Court, New York County June 13, 2019) and *Batilo v. Mary Manning Walsh Nursing Home*, 2018 N.Y. Misc. LEXIS 4964 (Supreme Court, New York County Oct. 26, 2018) – obtained summary judgment for employer in two related lawsuits filed by terminated employees alleging race and national origin discrimination, harassment and retaliation
- *Greer v. National Grid*, Index No. 10-8349 (Supreme Court, Suffolk County February 12, 2018) and 89 A.D.3d 1059, 934 N.Y.S.2d 682 (2d Dep't 2014) – obtained dismissal of terminated employee's malicious prosecution and negligent supervision claims against employer
- *Grimaldi v. Gough*, 114 A.D.3d 679, 979 N.Y.S.2d 682 (2d Dep't 2014) – obtained dismissal of terminated employee's CPLR Article 78 challenge to his termination

- *Gerardi v. Village of Scarsdale*, 71 A.D.3d 895, 895 N.Y.S.2d 831 (2d Dep't 2010) *affirming* 2009 N.Y. Misc. LEXIS 3646 (Supreme Court, Westchester County 2009) – obtained for municipal employer a determination that its fire marshal was not entitled to line-of-duty disability benefits under General Municipal Law § 207-a, and obtained dismissal of fire marshal's due process claim
- *William Floyd School District v. Wright*, 61 A.D.3d 856, 877 N.Y.S.2d 395 (2d Dep't 2009) – under a novel application of "faithless servant doctrine" granting permanent forfeiture of all compensation, including paid health insurance into retirement, otherwise paid/owed to two disloyal employees
- *Engel v. Pace University*, 2011 N.Y. Misc. LEXIS 5595 (Supreme Court, New York County 2011) and *Capasso v. Pace University*, 2009 N.Y. Misc. LEXIS 4933 (Supreme Court, New York County 2009) – obtained dismissal of students' CPLR Article 78 challenges to their dismissal from University's nursing program due to failure to meet academic standards

## Representative Presentations

- Labor Peace Agreements for Human Service Providers in New York City, Nonprofit NY, December 2021
- The Biden Administration's Employment Law Initiatives, Association of Independent Research Institutes, September 13-14, 2021
- Damages in Employment Discrimination Cases, Employment Discrimination Law & Litigation 2019, Practising Law Institute, June 17, 2019
- New York State Paid Family Leave and New York City Paid Sick Leave, Hot Topics in Labor Law for Home Care Providers, Home Care Association Education and Research, June 13, 2019
- If Not Now, When? Achieving Equality For Women Attorneys In The Courtroom, Nassau County Bar Association, November 28, 2018
- Recognizing, Responding to and Preventing Harassment in the Workplace, Long Island Library Conference, May 3, 2018
- Do's and Don'ts of Managing Employee Disability Claims, February 20, 2018
- N.Y.S. Paid Family Leave: Is Your Firm Ready?, Nassau County Women's Bar Association, October 18, 2017
- N.Y.S. Paid Family Leave Law: What it Means for Your Workplace, Healthcare Association of New York State (HANYS), October 13, 2017
- Women in the Workplace: Understanding and Establishing Appropriate Personnel Policies, Nassau County Bar Association, May 17, 2016
- Cybersecurity in the Workplace: Obtaining and Protecting Confidential Employee Information, Hofstra Labor and Employment Law Journal Symposium, April 15, 2016
- Sexual Harassment, Nassau County Women's Bar Association, February 24, 2015
- Labor and Employment Law Primer, Nassau County Women's Bar Association, May 1, 2014

## Representative Publications

- Quoted in "U.S. Sick Leave Laws for Coronavirus Take Effect," *Newsday*, April 2, 2020
- Quoted in "Romance by the water cooler," *Long Island Business News*, March 2020
- Quoted in "Time to Comply," *Long Island Business News*, September 10, 2019
- Quoted in "Deadline Approaches for Data to be Submitted to EECO," *Long Island Business News*, September 6, 2019
- Quoted in "Worker may have to take Paid Family Leave and FMLA time concurrently," *Newsday*, April 4, 2018
- "Litigation Over The Flu Shot: A New Symptom Of Flu Season," *Law360*, February 23, 2018
- Quoted in "#MeToo prompts Long Island firms to address sexual harassment," *Newsday*, January 12, 2018
- Quoted in "Mom could get NY paid leave, even if baby comes before Jan. 1," *Newsday*, October 16, 2017
- Quoted in "The ins and outs of New York State's new paid-time off law," *Newsday*, September 8, 2017
- Quoted in "Paying for travel," *Long Island Business Review*, April 10, 2017
- Quoted in "Eight little-known labor laws that may surprise you," *Newsday*, October 9, 2016
- "Public Sector Cyber Attacks and Municipality Obligations Under the New York State Technology Law," *Talk of the Towns Magazine*, July 2016 - August 2016
- Quoted in "Teaming up on internal investigations," *Long Island Business News*, June 10, 2016
- Quoted in "DOL Worker Fired for Bad Attitude Lacks Race Discrimination Claim," *Bloomberg BNA, Daily Labor Report*, May 20, 2016
- Quoted in "New laws friendly to women in the workplace," *Long Island Business News*, January 15, 2016
- "LGBT Rights Finally Come To The FMLA," *Law360*, March 4, 2015

## Other Activities

- Bond, Schoeneck & King Diversity and Inclusion Committee, Member
- Bond, Schoeneck & King Women's Initiative Committee, Member
- Long Island Alzheimer's and Dementia Center, Board of Trustees, Chair