



## Subhash Viswanathan

### Member

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### Profile

**Subhash helps employers with their labor and employment issues in a manner that is sensitive to each employer's unique circumstances and ultimate goals.**

He has experience representing employers in many different industries, including colleges and universities, public school districts, health care institutions, manufacturing establishments, not-for-profit corporations and restaurants.

Subhash provides practical advice to human resources professionals regarding how to approach particular employment issues and handles all types of judicial and administrative labor and employment litigation. Some of the subjects Subhash has advised employers on include Family and Medical Leave Act compliance, wage and hour compliance, reasonable accommodation issues and workplace harassment issues. He has also conducted numerous workplace investigations relating to alleged harassment and other employee misconduct, and provided recommendations regarding how to address such misconduct.

Subhash defends employers in employment discrimination litigation before the Equal Employment Opportunity Commission, the New York State Division of Human Rights and in state and federal courts. He also represents private sector employers in unfair labor practice and union representation proceedings before the National Labor Relations Board, and represents public sector employers in improper practice proceedings before the Public Employment Relations Board. Subhash also handles arbitration hearings and provides assistance to employers with negotiating collective bargaining agreements.

Subhash has extensive experience advising employers regarding compliance with state and federal wage and hour laws, and regularly assists employers with investigations conducted by the New York State Department of Labor and the United States Department of Labor. He has also represented clients in wage and hour hearings before the New York State Industrial Board of Appeals, as well as in claims brought in federal court under the Fair Labor Standards Act and the New York Labor Law.

In addition to providing general labor and employment advice and counseling, Subhash also advises school districts regarding tenure issues, layoffs and recalls, and employee discipline. He has assisted school districts with investigating allegations of child abuse in an educational setting under Article 23-B of the Education Law, and has advised school districts regarding their reporting obligations

### Education

- Duke University School of Law (J.D., *with high honors*, 1995)
- Cornell University School of Industrial and Labor Relations (B.S., *with honors*, 1992)

### Bar/Court Admissions

- New York
- U.S. Supreme Court
- U.S. Court of Appeals for the District of Columbia Circuit
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Second Circuit
- U.S. District Court for the Northern District of Indiana
- U.S. District Court for the Northern District of New York
- U.S. District Court for the Western District of New York

### Practices

- School Law
- Labor and Employment
- Hospitality and Tourism

under Article 23-B. He has handled several employee disciplinary hearings on behalf of school districts under Education Law Section 3020-a and Civil Service Law Section 75. For his work on behalf of school districts, Subhash was named *Lawyer of the Year* in 2013 and 2018 by *Best Lawyers in America* for Education Law in the Syracuse area.

Subhash has spoken at numerous management and human resources seminars on various labor and employment law topics. He is also the principal editor and a frequent contributor to the firm's labor and employment law blog, the *New York Labor and Employment Law Report*.

## Representative Matters

- Obtained a favorable decision from a Public Employment Relations Board Administrative Law Judge, holding that a public school district did not violate the Taylor Law by denying a request to allow the teachers' union to hire its own industrial hygienist to conduct mold testing in the district's school buildings.
- Won summary judgment for a municipality in the U.S. District Court for the Northern District of New York in a race discrimination case filed by a former employee.
- Won summary judgment for a college in the U.S. District Court for the Northern District of New York, in a sex discrimination, race discrimination, and retaliation case filed by a former professor who was denied tenure.
- Won summary judgment for an international vision care company in the U.S. District Court for the District of Maryland, in a sex discrimination, race discrimination, and racial harassment case filed by a former employee.
- Obtained a favorable decision from a New York State Division of Human Rights Administrative Law Judge after a hearing, holding that a restaurant franchise's "English-only" policy during work time did not violate the New York Human Rights Law.
- Obtained a favorable decision from the New York Industrial Board of Appeals after a hearing, holding that an employee was in an exempt classification and was not entitled to overtime compensation for hours worked over 40 in a work week.
- Obtained dismissal of a CPLR Article 78 petition filed in state court by a former employee of a BOCES, alleging that she was improperly denied recall to a vacant position.
- Won summary judgment for a paving contractor in the U.S. District Court for the Northern District of New York, in a racial harassment case filed by a former employee.

## Honors & Affiliations

- Listed in:
  - *The Best Lawyers in America*®, Education Law, 2010-2022 (listed for more than 10 years)
    - Lawyer of the Year - Syracuse, Education Law, 2013; 2018
  - *New York Super Lawyers*®, Employment and Labor, 2021
  - *Martindale-Hubbell*®, AV Preeminent Rated

- New York State Bar Association
- Onondaga County Bar Association

## Representative Presentations

- Going Back to the Workplace: Cannabis and HERO ACT Safety Standards, The Business Council of New York State, Annual Meeting, September 23, 2021
- New York State Travel Advisory Briefing, MACNY, July 16, 2020
- Preventing and Addressing Sexual Harassment in the Workplace, New York State Public Housing Authority Directors Association Fall Conference, October 18, 2019
- 2018 Legislative Update, CNY SHRM, January 15, 2018
- FLSA White Collar Exemptions, College and University Business Officers, October 18, 2016
- New York's New Paid Family Leave Act, NYS Statewide Association of the American Payroll Association Statewide Payroll Conference, September 23, 2016
- FLSA White Collar Exemption Regulations, Manufacturers Association of Central New York, September 20, 2016
- Fair Share or Free Speech? *Friedrichs v. California Teachers Assoc.*, The Labor and Employment Relations Association of Central New York, March 10, 2016
- The Supreme Court's Decision in *EEOC v. Abercrombie*: What Can Employers do to Reduce the Risk of Religious Discrimination Claims in the Hiring Process?, Monroe County Bar Association, October 6, 2015
- Not in My Backyard: Restricting Competition by Former Employees, New York State Bar Association, Labor and Employment Law Section, September 25, 2015
- What Firms Look for in Potential Summer Associates: Acing Your BigLaw Interviews and Mock Interviews/Career Chats, Cornell Law School BLSA, LALSA, & NALSA Professional Development Boot Camp, March 22, 2014

## Representative Publications

- NY's Minimum Salary Level to Qualify for Executive Exemptions Will Rise, *Central New York Business Journal*, January 3, 2022
- Positive Developments For New York State Employers, *Central New York Business Journal*, July 10, 2020
- Quoted in "Does Your Workplace Ban Natural Hairstyles?" *Human Resource Executive*, September 17, 2019

## Other Activities

- President, Legal Aid Society of Mid-New York, Inc.
- President, Legal Services of Central New York, Inc.
- Board Member, Jamesville-DeWitt Little League