

John J. Myers

MEMBER

John Myers focuses his practice on labor and employment litigation and counseling. He has defended employers throughout the country in cases involving claims of employment discrimination, wrongful discharge, ERISA violations, breach of employment contracts, minimum wage and overtime pay violations, and a variety of employment-related torts. John previously chaired the firm's Labor & Employment Department for over 20 years.

John is also experienced in restrictive covenant and trade secret misappropriation litigation.

REPRESENTATIVE MATTERS

- In a COVID-19 mandatory vaccination case, district court dismissed Pa. Human Relations Act Claim for untimeliness, rejecting an argument that federal class action tolling precedents apply and holding that Pennsylvania courts do not recognize tolling of statutes of limitations for members of a federal court class action that was decertified. *Lutz v. Pittsburgh Regional Transit*, 2026 WL 472058 (W.D. Pa. Feb. 19, 2026)
- District court dismissed all claims against two defendants and four of five against the remaining defendant, in a case asserting a variety of claims, including pregnancy, FMLA discrimination, retaliations and FMLA violations. *Horne v. UPMC*, 2025 WL 3290686 (W.D. Pa. Nov. 26, 2025)
- Summary judgment granted in a sex discrimination and retaliation case by discharged employee. *Averytt v. Magee-Womens Hospital of UPMC*, 2025 WL 2696447 (W.D. Pa. Sept. 22, 2025)
- The court refused to certify a class action involving Title VII and ADA claims by 80+ employees who were discharged after refusing COVID-19 Vaccination because of alleged religious beliefs and disabilities. *Meinert v. Port Authority of Allegheny County*, 2025 WL 903815 (W.D. Pa. March 25, 2025)
- Court of Appeals affirmed summary judgment for defendant LTD Plan in an ERISA lawsuit for STD/LTD benefits. *Brown v. Covestro LLC Welfare Benefits Plan*, 2024 WL 4751199 (3d Cir. Nov. 12, 2024) affirming 2023 WL 8481352 (W.D. Pa. 2023)
- Summary judgment granted against discharged nurse who asserted claims under the American with Disabilities Act for failure to accommodate day shift only request and disparate

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PRACTICE AREAS:

Labor & Employment

Litigation

STATE ADMISSIONS:

Pennsylvania

COURT ADMISSIONS:

Supreme Court of the United States

U.S. Courts of Appeal for the First Circuit

U.S. Courts of Appeal for the Second Circuit

U.S. Courts of Appeal for the Third Circuit

U.S. Courts of Appeal for the Fourth Circuit

U.S. Courts of Appeal for the Sixth Circuit

U.S. Courts of Appeal for the Seventh Circuit

U.S. Courts of Appeal for the Eighth Circuit

U.S. Courts of Appeal for the 11th Circuit

U.S. District Court for the Middle District of Pennsylvania

U.S. District Court for the Western District of Pennsylvania

EDUCATION:

J.D., Tulane University School of Law, 1976; Editor, *Tulane Law Review*; Order of the Coif

B.A., Franklin & Marshall College, 1973

treatment. *Nodaros v. UPMC Mercy Hospital*, 2024 WL 4680373 (W.D. Pa. Nov. 05, 2024)

- District Court dismissed 6-count complaint seeking $2 million for alleged breach of a subscription agreement for cloud-based software for post-acute care providers, enforcing a limitation of remedies clause in the agreement. *Hope International Hospice, Inc. v. Net Health Systems, Inc.*, 2023 WL 2433642 (D. Utah March 9, 2023)
- In a class action, district court dismissed several counts of the Complaint and held that employees in a class action alleging violation of the Americans with Disabilities Act and Title VII for refusing COVID 19 vaccination were not entitled to proceed anonymously. *Doe(s) v. Pittsburgh Regional Transit*, 684 F. Supp. 3d 417 (W.D. Pa. 2023)
- Court of Appeals affirmed summary judgment in a case alleging employee was discharged because of her sex in violation of federal and state law. *Welchko v. UPMC Altoona*, 2022 WL 524363 (3d Cir. Feb. 22, 2022), affirming 2021 WL 4460965 (W.D. Pa.)
- Lead counsel on Third Circuit case affirming an award of ESI discovery costs against class action plaintiffs in the amount of $317,000, one of the highest ESI cost awards in the country to date. *Camesi v. University of Pittsburgh Medical Center*, 753 Fed. Appx. 135 (3d Cir. Nov. 9, 2018).
- Court of Appeals established the legal standard for a top hat pension plan, rejecting decisions of three other circuit appeals courts, in upholding decision in favor of clients' executive pension plan. *Sikora v. UPMC, et al., 876* F.3d 110 (3d Cir. 2017).
- Federal Court awards summary judgment for clients in ADA/FMLA cases. Lavorgna v. Norfolk Southern Corp., 2017 WL 5006430 (W.D. Pa. 10/31/17) and Colonna v. UPMC Hamot, 2017 WL 4235937 (W.D. Pa. 9/25/2017).
- Summary judgment in favor of employer in Age Discrimination in Employment Act case filed by discharged manager. *Pope v. Bayer MaterialScience LLC*, 2016 WL 66257 (W.D. Pa. 11/16/2016).
- Summary judgment affirmed by U.S. Court of Appeals against Nurse Practitioner alleging age discrimination. *Willis v. UPMC Children's Hospital of Pittsburgh*, 808 F. 3d 638 (3d Cir. Dec. 22, 2015).
- Defense jury verdict in ADA case filed by locomotive engineer in federal court. *Dicanio v. Norfolk Southern Ry* (WD Pa. 2015).
- Defense jury verdict in an FMLA retaliation case on remand from *Lichtenstein v. University of Pittsburgh Medical Center*, 691 F.3d 294 (3d Cir. 2012). Judgment affirmed, 2015 WL 399958 (3d Cir. 2015).
- Defense verdict in case under Pa. Whistleblower Act affirmed. In a case of first impression, the Pennsylvania Superior Court affirmed a defense verdict, holding that there is no right to a jury trial under the Pennsylvania Whistleblower Law. *Bensinger v. Western Psychiatric Institute and Clinic*, 98 A.3d 672 (Pa. Super. 2014).
- Defense jury verdict in case under ADA and ADEA alleging that the plaintiff was discharged because of her disability(cancer) or her age. *Buller v. PPG Industries* (Feb. 2014).

- Successfully decertified a Fair Labor Standards Act class of 3,000 opt-ins and defeated plaintiffs' attempted appeal. *Camesi v. UPMC*, 729 F.3d 239 (3d Cir. 2013).
- Seminal case in the Courts of Appeal affirmed dismissal of a class action Complaint which alleged that the employer failed to keep accurate records of hours worked, as required by Section 209(a) of ERISA, because it did not include off-the-clock work plaintiffs allegedly performed. *Henderson v. UPMC*, 640 F.3d 524 (3d Cir. 2011).
- Court of Appeals established circuit precedent for level of management whose knowledge of sexual harassment may be imputed to the company. *Huston v. Procter & Gamble Paper Products Corp.* 568 F. 3d 100 (3rd Cir. 2009).
- ERISA top hat plan litigation interpreting supplemental pension plan to deny executive's claim and Eastman Kodak indemnity claim. *Eastman Kodak Co. v. Bayer Corp.*, 576 F. Supp. 2d 548, 551 (S.D.N.Y. 2008), affirmed 2009 WL 2767021 (2d Cir. 2009).
- Have tried dozens of employment discrimination jury trials to verdict.

PROFESSIONAL AFFILIATIONS

- Allegheny County Bar Association
- Pennsylvania Bar Association

COMMUNITY INVOLVEMENT

- Urban League of Greater Pittsburgh, Board of Directors
- The Education Partnership, Board of Directors

AWARDS AND RECOGNITION

- Selected for inclusion as The Best Lawyers in America 2023 – 2027 for Commercial Litigation; Employment Law – Management; Litigation – ERISA; and Litigation – Labor & Employment
- Selected for inclusion in *Pennsylvania Super Lawyers*
- Selected for inclusion in *The Best Lawyers in America* for Employment Law – Management; Litigation – Labor & Employment; Litigation – ERISA; and Commercial Litigation
- Attained an AV® Preeminent™ rating from Martindale-Hubbell and Special Edition Judicial Award

NEWS AND INSIGHTS

PUBLICATIONS

- "After the dust settles: What Ricci vs. DeStefano means to employers," Eckert Seamans' Legal Update, November 2009.
- "Private Sector Commentary: Bias Ruling Creates Confusion for Employers," Pittsburgh Post-Gazette, August 2009.
- "Supreme headache for employers? High court ruling could clear

way for more employee discrimination suits," Pittsburgh Post-Gazette, July 2006.

MEDIA COVERAGE

- "High-profile harassment scandals could pressure human resource departments," Pittsburgh Post-Gazette, December 4, 2017.
- "Harassment: A problem every employer should take seriously," Pittsburgh Post-Gazette, April 17, 2017.
- "Workers Who Drop Claims Can't Fight Decertification: Third Circ." Law360, September 4, 2013.
- "Legal Perspectives on Video Interviewing," InterviewStream Blog, July 9, 2013.
- "Future of Class-Action Cases Still Unclear," Human Resources Executive (online), February 1, 2012
- "Hospitals Wage Battle with OFCCP," BNA, The Daily Labor Report, February 18, 2011.
- "Layoffs without lawsuits: Treating people well can be good business in a downturn," Wire Rope News & Sling Technology, October 2010.
- "Fired for Taking Vacation: When the Boss Asks You to Cancel Plans," The Wall Street Journal, July 16, 2010.
- "Holding Associates Accountable," Human Resources Executive (online), November 24, 2009.
- "Protecting the Workplace," Human Resources Executive (online), October 27, 2009.
- "Clarifying Supervisory Notification," Human Resources Executive (online), July 13, 2009.
- "Reverse Discrimination Quashed," Human Resources Executive (online), June 30, 2009.
- "Supreme Court: New Haven Violated Title VII by Discarding Promotion Exam Results," SHRM Online, June 29, 2009.
- "Firefighter Ruling May Aid Employers, Hurt Sotomayor," Labor Law360, May 2009.
- "Layoffs Without Lawsuits," AQUA: The Business Magazine for Spa & Pool Professionals, April 2009.
- "How to Play Fair," Industry Week, April 2009.

SPEAKING ENGAGEMENTS

- "News You Can Use: A review of recent judicial, legislative, and regulatory developments of significance to employers," co-presented at Eckert Seamans' Human Resources Forum, April 26, 2023.
- "News You Can Use: A review of recent judicial, legislative, and regulatory developments of significance to employers," co-presented at Eckert Seamans' Human Resources Forum, April 2019.
- "Beyond the FMLA and ADA: The Other Leave and Break Laws You Also Need to Know" presented at the 2018 PBI Employment Law Institute West, November 2018.
- "Church Plans Litigation Update," ACI ERISA Litigation

Conference, New York, NY November 2, 2017.

- "Taking and Defending the Deposition of HR Managers," 2017 PBI Employment Law Institute West, November 17, 2017.
- "Accommodating Pregnant Employees after *Young v. United Parcel Service*," 2016 PBI Employment Law West program, Pittsburgh, Pennsylvania, November 2016.
- "Pregnancy — The Path from Stepdaughter of Protected Classes to Superprotection," Eckert Seamans' Human Resources Forum, May 2016.
- "State Law Bans on Discretionary Clauses in Disability Plans," ACI Litigating Disability Insurance Claims Forum, January 2016.
- "Defending claims involving remote work using Blackberry devices, home computers, iPhones and similar devices," ACI Wage and Hour Forum, Miami, Florida, January 2015.
- "The Conflicted Fiduciary – post-Glenn Developments in the Standard of Review," ACI's 8th National Forum on ERISA Litigation, October 2014.
- "Considerations for Other Types of Leave," National Business Institute's Employee Leave Law from A to Z continuing legal education program, August 2014.
- "The Fluctuating Work Week," ACI National Forum on Wage & Hour Claims and Class Actions, May 2014.
- "Equitable Remedies Under Section 502 (a)(3) after *Cigna Corp. v. Amara*," ACI National Forum on ERISA Litigation in Chicago, April 2014.
- "Benefits Claims Litigation," ACI 6th National Forum on ERISA Litigation in New York City, October 2013.
- "Employee Termination Decisions: Negotiating the Minefield," Eckert Seamans Human Resources Forum, June 2013.
- "The Americans with Disabilities Act: Judicial developments in defining who is disabled and how disabled employees must be accommodated," Eckert Seamans' Human Resources Forum, January 2013.
- "Affirmative Defenses under the Equal Pay Act," Pennsylvania Bar Institute Employment Law Institute West, November 2012.
- "Hot Topics in Wage and Hour Law: "Off-the-Clock" Claims, Meal and Rest Breaks, and Tipping," ACI National Forum on Wage Hour Claims & Class Actions, New York City, June 2012.
- "Arbitration of Employment Disputes – Panacea or Plague? Or Neither?" Eckert Seamans' Human Resources Forum, May 2012.
- "Attorneys' Fees Under the FLSA – Are the Courts Following the Law?" American Conference Institute National Forum on Wage Hour Claims and Class Actions, Miami, Florida, January 2012.
- "News You Can Use: A Review of Recent Judicial, Legislative and Regulatory Developments of Significance to Employers," co-presenter, Eckert Seamans' Human Resources Forum, November 2011.
- Wage & Hour Symposium, Course planner and panelist, Pennsylvania Bar Institute seminar, held September 2011.
- "Off-the-Clock Collective Actions under the Fair Labor Standards Act," American Conference Institute Seminar, Miami, Florida, February 2011.

- “ERISA Litigation,” American Conference Institute, New York City, October 2010.
- “Don’t Ask, Don’t Tell, ” co-presenter, Eckert Seamans’ Human Resources Forum, December 2009.