



Kenneth M Willner

Partner, Employment Law Department

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Ken Willner is vice chair of the Paul Hastings Employment Law Department. He is based in the firm's Washington, D.C. office. He represents employers, particularly focusing on employment discrimination class actions, employment testing and validation, wage/hour collective actions, statistics, disability discrimination; protection of employer intellectual property; and drug and alcohol testing.

Mr. Willner is a recognized leader of the management bar in the fields of employment discrimination class actions and employment testing and validation. He represents employers in employment law and litigation in federal and state courts and before the Equal Employment Opportunity Commission and Office of Federal Contract Compliance Programs. He has deep experience with employment law class actions; employment testing; test validation, statistics and expert witnesses, as well as individual cases; discrimination litigation; sexual harassment; disability discrimination; wage and hour advice and litigation; family/medical leave; affirmative action; compliance reviews; wrongful discharge; traditional labor law; labor relations; unfair labor practice charges; executive contract negotiations; protection of employer intellectual property; non-competition covenants; drug and alcohol testing; and employment law torts. Mr. Willner's clients include companies that make or use employment tests, financial institutions, major retail chains, airlines, manufacturers, government entities, government contractors, high-tech firms, industry associations, local government associations, professional service organizations, accounting firms, law firms, real estate companies, environmental companies, and individuals.

Recent Representations

- Represented two federal agencies in large discrimination class actions
- Represented national retailer in nationwide discrimination and wage and hour class actions.
- Represented broadcaster in me-too sexual harassment litigation.
- Represent major tech company in large discrimination class action.

Washington, D.C.

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Practice Areas

Employee Mobility and Trade Secrets
Trade Secrets
Employment Counseling and Preventive Advice
Employment Litigation
Workplace Retaliation and Whistleblower Defense
Technology Litigation
Employment Law
Appellate Litigation

Admissions

District of Columbia Bar
Virginia Bar

Education

University of Virginia, B.A.
1984

University of Virginia, School of Law, J.D. 1987

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- Represented auto manufacturer in large discrimination class action.
- Represented airline in large discrimination class action.
- Represented financial services company in executive termination litigation.
- Represented major employment testing company with respect to EEOC litigation concerning tests administered to millions of applicants.
- Defended multiple appeals of federal district court victories.
- Advised major employment testing company with respect to the design and validation of next generation assessments to be administered as part of electronic application process hosted by client.
- Advised investment bank with respect to design and validation of “big data” selection systems.
- Advised manufacturer with respect to risk assessment of testing programs at 30 manufacturing plants, distribution centers and headquarters facilities in the United States, and with respect to modification and validation of testing programs.
- Advised hedge fund with respect to design and validation of on-line employment testing programs for all management and some non-management hires.
- Advised utility with respect to design and validation of testing programs for all jobs.
- Advised major retail chain with respect to design and validation of testing program and high-potential assessment for all store management positions in the United States as required by settlement of class action alleging discrimination in selections for those jobs.
- Advised manufacturer with respect to design and validation of assessments for mechanics and operator jobs at all plants and mills.
- Advised nation-wide health care provider with respect to risks assessment of testing program.
- Advised major retail chain with respect to validation of testing program for all store managers, district managers and warehouse managers.
- Testified at EEOC invitation as management bar representative at EEOC Commission meeting addressing legal issues in employment testimony.
- Invited by the American Psychological Association to comment on the Revised Standards for Psychological testing, and invited to present on legal issues in testing to the Society of Industrial Organization Psychologists.

Accolades and Recognitions

- Recognized by The Legal 500 for Labor and Employment Disputes
- Elected a Fellow of the College of Labor and Employment Lawyers
- Recognized by Chambers and Partners as a leading lawyer in labor and

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employment law

- Recognized in Best Lawyers in America
- Ranked by peers as among the Washington, D.C. “Super Lawyers”

Speaking Engagements and Publications

- Multi-Plaintiff and Class Action Sex Harassment and Retaliation Cases: A Defense Perspective, in Litigating the Gender Harassment and Retaliation Case (ABA TIPS forthcoming 2018)
- Workplace Personality Testing: Towards a Better Way of Determining Whether Personality Tests Are Prohibited Pre-Offer Medical Exams under the Americans with Disabilities Act (with Steve Sonnenberg), Employee Relations Law Journal (Winter 2016)
- “Post-Dukes, Are Disparate Impact Claims the Next Wave of EEO Class Actions?,” ABA National Conference on Equal Employment Opportunity Law, Section of Labor and Employment law, April 2016
- “Developments in Equal Employment Opportunity,” National Employment Law Institute (NELI) 43rd Annual Employment Law Update, July, 2019 and NELI 39th Annual Public Sector EEO and Employment Law Conference, August 2019
- “Burden of Proof – Can I-Os [Industrial Organization Psychologists] and Employment Counsel Successfully Collaborate?,” 32d Annual Conference of the Society of Industrial and Organizational Psychology (SIOP), April 2017
- “Current Evidentiary Problems in Employment Litigation,” ALI, Advanced Employment Law and Litigation Conference, March 2015, February 2014, May 2013 and March 2013
- “Psychiatric and Psychological Exams of Employees,” Practising Law Institute, Psychological Issues in Employment Law, March 2015
- “Drug Testing Issues,” ALI, Airline and Railroad Labor and Employment Law: A Comprehensive Analysis, April 2014
- “Class Actions after Walmart,” ALI, Advanced Employment Law and Litigation Conference, February 2014 and March 2013
- “Choosing and Working With an Expert Witness,” and “Class Actions after Walmart,” ERS Group, Employment Discrimination: Economic and Statistical Evidence Seminar, February 2014
- “Major Employee Leave Laws,” Webcredenza, Managing Employee Leave telephone seminar, July 2013

Professional and Community Involvement

- Member of the Employment Law sections of the American Bar Association, the Virginia Bar Association, and the District of Columbia Bar Association

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- Admitted to the Bar Associations of the Commonwealth of Virginia and the District of Columbia, as well as the U.S. Supreme Court; U.S. Courts of Appeals for the Third, Fourth, Sixth, Eighth, Tenth, and District of Columbia Circuits; and the U.S. District Courts for the Eastern District of Virginia, the District of Columbia, and the Western District of Pennsylvania

Education

- University of Virginia School of Law, J.D., 1987; Order of the Coif; Virginia Law Review
- University of Virginia, B.A., 1984

News

May 01, 2019

Paul Hastings Practices and Lawyers Score Top Rankings in Chambers USA 2019

May 11, 2018

Paul Hastings Practices and Lawyers Score Top Rankings in Chambers USA 2018

June 05, 2017

Paul Hastings Practices and Lawyers Score Top Rankings in Chambers USA 2017

June 08, 2016

Paul Hastings Practices and Lawyers Score Top Rankings in Chambers USA 2016

May 20, 2015

Paul Hastings Practices and Lawyers Score Top Rankings in Chambers USA 2015

May 27, 2014

Paul Hastings Practices and Lawyers Score Top Rankings in Chambers USA 2014

June 05, 2013

Paul Hastings Extensive Practice Strength Highlighted in The Legal 500 United States 2013

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May 27, 2013

Paul Hastings Employment Practice Honored with Chambers "Award for Excellence" and Firms Leading Practices and Lawyers Ranked in Chambers USA 2013

March 15, 2013

Paul Hastings Achieves Jury Win for Dollar Tree

June 07, 2012

Paul Hastings Excels in Chambers USA 2012 Guide

June 10, 2011

Paul Hastings Excels in Chambers USA 2011 Guide

June 14, 2010

Paul Hastings Garners Top Rankings in Chambers USA 2010 Guide

January 06, 2010

Paul Hastings Selected as The American Lawyers Labor & Employment Litigation Firm of the Year

May 20, 2007

Paul Hastings Attorneys Recognized as Super Lawyers in Southern California, Connecticut, Georgia, New York, San Diego and Washington, D.C.

Insights

August 01, 2018

Prior Salary in Employment Decisions: California Changes and Attempts to Clarify Recent Salary History Ban and Fair Pay Act Legislation

March 07, 2016

Understanding The DOL's Proposed Regulations On Paid Sick Leave For Federal Contractors

June 04, 2015

Proposed Amendments to the Federal Acquisition Regulations Pose Substantial New Burdens and Risks for Federal Contractors

February 20, 2015

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Employers Should Be Aware of Recent Changes and Additions to Key D.C.
Employment Laws

Rankings & Awards

April 26, 2019

Recognized by Chambers USA 2019

May 15, 2018

Recognized by Chambers USA 2018

June 05, 2017

Recognized by Chambers USA 2017

June 08, 2016

Recognized by Chambers USA 2016

June 26, 2015

The College of Labor and Employment Lawyers

January 02, 2013

Law360 Awards - Top Practice Groups of the Year

February 16, 2011

BTI Consulting Group