



## Marc E Bernstein

Partner, Employment Law Department  
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**Marc Bernstein** is the chair of the New York Employment Law Department. Mr. Bernstein has a broad-based employment litigation practice, with a focus on litigation of trade secrets, covenants not to compete, unfair competition and related business tort claims.

Mr. Bernstein litigates a wide range of employment matters, including wage and hour class actions, employment discrimination, wrongful discharge, breach of contract and ERISA litigation. Mr. Bernstein also has extensive experience counseling multinational financial services corporations. His experience includes over 14 years as Associate General Counsel at American International Group, Inc., where he headed the company's Labor and Employment legal group and was the senior employment lawyer advising management regarding employment issues.

### Recent Representations

- *Weber v. FUJIFILM Medical Systems U.S.A., Inc.* (2d Cir. 2014) (jury trial and verdict rejecting national origin and age discrimination claims, and reversing tortious interference award)
- *Arno v. New York Medical College* (N.Y. Sup. Ct. 2015) (granting summary judgment dismissing defamation claims)
- *Nicolas v. Intrepid Sea, Air & Space Museum* (NLRB 2013) (dismissing claim alleging violation of the National Labor Relations Act)
- *AIG v. Guterman* (2d Cir. 2012) (affirming summary judgment in favor of employer in ERISA litigation)
- *Boart Longyear Ltd. V. Alliance Industries, Inc.* (S.D.N.Y. 2012) (granting motion to dismiss claim for breach of no-hire agreement)
- *Nicomedez v. AIG* (S.D.N.Y. 2012) (granting summary judgment dismissing disability discrimination case)
- *Galyon v. Chartis Global Investigations, Inc.* (S.D. Tex. 2010) (defeating motion for conditional certification of nationwide FLSA collective action)
- *Velto v. American International Group, Inc.* (N.Y. Sup. Ct. 2011) (granting

### New York

T: 1(212) 318-6907  
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### Practice Areas

Employee Mobility and Trade Secrets  
Global Compensation, Benefits, and ERISA  
Workplace Retaliation and Whistleblower Defense  
Employment Litigation Litigation  
Employment Counseling and Preventive Advice  
Employment Law  
Trade Secrets

### Admissions

New York Bar

### Education

Harvard Law School, J.D. 1989  
State University of New York at Buffalo, B.A. 1986

## Marc E Bernstein (Continued)

summary judgment dismissing age discrimination case)

- Brathwaite v. Intrepid Museum Foundation (N.Y. Sup. Ct. 2011) (granting motion to dismiss race discrimination case)

### Accolades and Recognitions

- Recognized as one of the the top labor and employment disputes attorneys by The Legal 500
- Recognized as one of the top employment defense lawyers in New York by Chambers USA
- Fellow of the College of Labor and Employment Lawyers
- Member of the Employment Law360 Editorial Advisory Board
- Included in New York's Super Lawyers

### Speaking Engagements and Publications

- "Contractually Shortened Statutes of Limitations for Employee Claims," Thomson Reuters (2014)
- "Understanding, Drafting, and Negotiating Separation Agreements," LexisNexis Labor and Employment Practice Advisor (2014)
- "Preparing a Census Under OWBPA," LexisNexis Labor and Employment Practice Advisor (2014)
- "Complying with the Heightened Waiver Requirements Under the Older Workers Benefit Protection Act," LexisNexis Labor and Employment Practice Advisor (2014)
- "Understanding, Drafting, and Negotiating Employment Agreements," LexisNexis Labor and Employment Practice Advisor (2014)
- "Wage and Hour Threats," 26th Annual General Counsel Conference, June 4, 2014
- "Employers Who 'Ban The Box' Could Avoid Patchwork of Laws," EmploymentLaw360, June 10, 2015
- "High Court Closes Defense Loophole in Religious Bias Suit," Employment Law360, June 1, 2015
- "Why Retailers Are Sweating The DOL's Upcoming OT Changes," Employment Law360, April 10, 2015
- "High Court UPS Ruling Means Changes to EEOC Guidance," Employment Law360, March 25, 2015
- "2nd Circ. Won't Use Workers' Wage Case To Gut Class Actions," Employment Law360, February 10, 2015
- "Assault Suit Hurt Faruqi Even Before Verdict," Employment Law360, February 5, 2015
- "Obama's Sick Leave Push Faces Uphill Battle In Congress," Employment

## Marc E Bernstein (Continued)

- Law360, January 15, 2015
- “Labor And Employment Cases To Watch In 2015,” Employment Law360, January 2, 2015
- “High Court May Trump EEOC In UPS Pregnancy Bias Case,” Employment Law360, November 26, 2014
- “Post-firing Evidence Can Be A Potent Limit On Bias Damages,” Employment Law360, October 21, 2014
- “Employers’ EEOC Survival Guide,” Employment Law360, October 21, 2014
- “3rd Circuit Ruling On FMLA Mailings Ups Ante For Employers,” Employment Law360, August 8, 2014
- “7 Tips For Preparing Your Star Witness,” Employment Law360, July 31, 2014
- “Amazon Workers’ High Court Case Could Reshape FLSA,” Employment Law360, March 3, 2014
- “Obama To Direct FLSA Overtime Expansion To Promote Administration’s Wage Agenda,” BNA Daily Labor Report, March 12, 2014
- “7 Tips To Keep Office Romance From Causing Legal Heartache,” Employment Law360, February 7, 2014
- “Judges Split May Help EEOC Press Abercrombie Hijab Case,” Employment Law360, February 27, 2014
- “NYC Law Shows Paid Sick Leave Push Picking Up Steam,” Employment Law360, March 20, 2014
- “Employer Class Waivers On Surer Footing After 11th Circ. Win,” Employment Law360, March 24, 2014
- “Calif. High Court To Mull Fate Of Employment Class Actions,” Employment Law 360, April 2, 2014
- “5 Tips For Delivering An Effective Direct-Examination,” Employment Law360, April 28, 2014
- “5 Tips To Prevent Employee Internet Abuse,” Employment Law360, June 2, 2014
- “White House To Issue Executive Order Banning LGBT Bias By Government Contractors,” BNA Daily Labor Report, June 16, 2014
- “6th Circ. Hands Employers A Victory On Class Arbitration,” Employment Law360, November 6, 2013
- “Affordable Care Act: Top 10 Issues For Employers,” Employment Law Client Briefing, October 17, 2013
- “Flaws of the 2-Step FLSA Certification Process,” Employment Law360, October 18, 2012
- “Fate Of Wage Class Actions In Balance At 2nd Circ.,” Employment Law360, August 19, 2013
- “2nd Circ. Ruling Gives Employer Class Waivers A Boost,” Employment

## Marc E Bernstein (Continued)

Law360, August 9, 2013

- “High Court Isn’t Keen On Class Actions, Latest Term,” Employment Law360, June 21, 2013
- “AmEx Ruling Looms Large For Wage-And-Hour Litigation,” Employment Law360, June 20, 2013
- “High Court Ruling Pushes Cos. To Tighten Arbitration Deals,” Employment Law360, June 10, 2013
- “Flaws of the 2-Step FLSA Certification Process,” Employment Law360, October 18, 2012
- “A New Headache For Employers: Whistleblower Claims Under the Affordable Care Act,” Client Alert, March 2013
- “Separation and Release Agreements: Material Drafting Points and Risks,” Professional Education Broadcast Network/WebCredenza, Inc., July 19, 2012
- “Crafting Employment Agreements and Compensation Packages in the New Reality,” Financial Services Employment Law Roundtable, April 19, 2012
- “Employment Agreements,” Professional Education Broadcast Network/WebCredenza, Inc., March 20, 2012
- “Key Issues in Wage and Hour Law from Coast to Coast,” Wage and Hour Forum, April 5, 2011
- “Marc E. Bernstein Weighs in on Employee Waivers and Releases, Ratification, and the ‘Tender Back’ Rule,” BNA Daily Labor Report, November 5, 2012
- “EEOC Releases Final Regulations Significantly Expanding Coverage under the Americans with Disabilities Act,” Client Alert, March 28, 2011
- “The New Landscape for Arbitration and Class Action Waivers,” Employment Law Roundtable, December 6, 2011
- “EEOC Releases Final Regulations Significantly Expanding Coverage under the Americans with Disabilities Act,” Client Alert, March 28, 2011
- “Navigating Through Timekeeping Policies and Off-the-Clock Litigation,” Wage and Hour Forum, June 22, 2010

### **Professional and Community Involvement**

- Member of the State Bar of New York and the American Bar Association
- Trustee and Secretary of the Stephen Wise Free Synagogue
- Served as a law clerk to the Honorable Jacob Mishler, United States District Court for the Eastern District of New York

### **Education**

- Harvard Law School, J.D. (cum laude), 1989
- State University of New York at Buffalo, B.A. (summa cum laude), 1986

## Marc E Bernstein (Continued)

### News

**May 01, 2019**

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

**August 17, 2018**

14 Paul Hastings Lawyers Named 2018 Acritas Stars

**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

**November 10, 2014**

Paul Hastings Represents Putnam Holding Company in Sale of Portfolio of New York Multifamily Residential Properties

**April 07, 2014**

Paul Hastings Advises Fisher Brothers in the Sale of Plaza Construction to One of the Largest Builders in China

**June 01, 2011**

Paul Hastings Soars in 2011 Edition of Legal 500 US

**March 25, 2010**

Former AIG Employment Counsel Joins Paul Hastings in New York

### Insights

**November 19, 2019**

New York State Human Rights Law: Changes to Know

**October 02, 2019**

Nondisclosure Agreements in NY: More Changes Coming Soon

**May 07, 2019**

## Marc E Bernstein (Continued)

NYC Adds New Protected Category to Expansive NYCHRL, Seeks to Curb Pre-Employment Marijuana Testing

**October 03, 2018**

New York State Releases Final Model Sexual Harassment Policy and Training

**August 27, 2018**

New York State Releases Model Sexual Harassment Policy and Training

**April 02, 2018**

New York Sexual Harassment Legislation

**June 25, 2015**

New York City "Ban the Box" Legislation

**March 06, 2013**

A New Headache For Employers: Whistleblower Claims Under the Affordable Care Act

**November 14, 2012**

Marc E. Bernstein Weighs in on Employee Waivers and Releases, Ratification, and the Tender Back Rule

**October 19, 2012**

Flaws Of The 2-Step FLSA Certification Process

**March 28, 2011**

EEOC Releases Final Regulations Significantly Expanding Coverage under the Americans with Disabilities Act

## Rankings & Awards

**April 26, 2019**

Recognized by Chambers USA 2019

**August 23, 2018**

Recognized as Acritas Stars by Sharplegal

**May 15, 2018**

Recognized by Chambers USA 2018

## Marc E Bernstein (Continued)

**June 05, 2017**

Recognized by Chambers USA 2017

**June 26, 2015**

The College of Labor and Employment Lawyers

**January 02, 2013**

Law360 Awards - Top Practice Groups of the Year