



New York **Employment Law:** The Essential Guide

Editors

Louis P. DiLorenzo, Esq.

Jeffrey A. Kehl, Esq.

Bond, Schoeneck & King PLLC

NEW YORK STATE BAR ASSOCIATION

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INTRODUCTION TO THE FIRST EDITION

This book represents a labor of love by the Bond, Schoeneck & King Labor and Employment, Employee Benefits and Immigration Group. Our goal was to take the collective experience of our current practitioners—ranging from junior associates to retirees and building on the legacy of the Firm’s previous four generations of labor and employment lawyers—in order to create an accessible reference for questions about New York employment law.

New York employment law is important for historical as well as practical reasons. New York is home to important financial and other markets; contains one of the largest cities in the United States; and has been a leader in addressing workplace issues and problems since long before the terrible Triangle Shirtwaist Factory fire of 1911. It is our hope this book will earn its title and be considered an essential guide to New York employment law for those who need to function in this sphere.

To create this guide, we identified authors within our Firm who could address such wide-ranging issues as contract law, tort law, discrimination law, employee benefits law, worker’s compensation law, unemployment insurance law, New York State Department of Labor regulations, wage and hour requirements, litigation, arbitration, mediation and other procedural and substantive areas which bear on the workplace. Although federal statutes (such as the National Labor Relations Act, immigration laws, and federal wage and hour laws) are not directly addressed here, knowledge and familiarity with them was necessary in order to allow appropriate cross-references when required.

Bond’s labor and employment lawyers work in our eight New York State offices which cover the length and breadth of the State and represent and counsel clients in virtually every industry. They recognize and appreciate that employment law governs the ongoing relationships in the workplace. Workplace problems are not like car accidents between strangers or malpractice claims. In some ways, employment law bears more resemblance to family law, as it deals with the ongoing relationships among employees, their employers, and their co-workers; and employment law necessarily addresses the issues and events which arise in the entire continuum of the workplace environment. Decisions in the workplace are rarely binary in their impact: rather, they more often involve, and affect, multiple other factors and stakeholders.

Further, each workplace has a unique culture which defines and manages the workforce. The law does not create a workplace culture: it is the relationship between the employer and the employees that determines the culture and is created by people rather than by statutes or the common law. The “correct” legal answer in one workplace culture may not necessarily be the right answer for other cultures. Hopefully, this book will provide the legal rules of the road for those who are responsible for shaping, changing, or maintaining the culture as they deal with the many episodes and events that affect them.

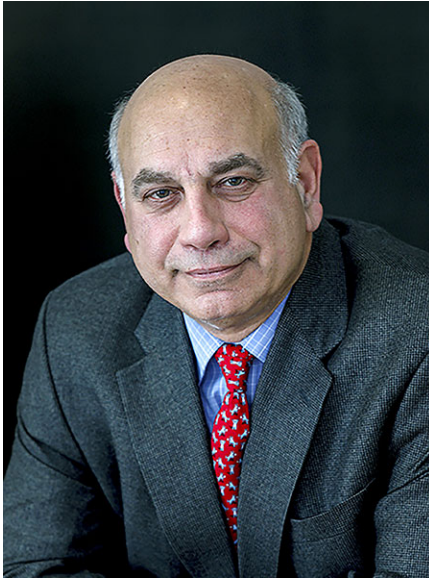
The Bond, Schoeneck & King lawyers who made the prodigious effort required to create this book are listed at the end of the book. A special thank you goes to the authors whose names also appear at the beginning of each chapter for which they made special contributions. Jeff Kehl’s editorial work on this book was the “but for” cause for its existence. His knowledge, editorial skills and work ethic are responsible for a cohesive and practical volume. This book has also benefited from the extraordinary efforts of two of the best writers the Bond firm ever enjoyed, John Gaal and Dan Bordoni. Their efforts, as special editors, were invaluable.

We all hope you enjoy this first edition, find it an essential guide and will welcome our later editions.

Lou DiLorenzo

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LOUIS P. DiLORENZO, ESQ.



Louis P. DiLorenzo has practiced labor and employment law with Bond, Schoeneck & King, PLLC since 1976. He is the Managing Member of Bond's New York City office (which he established for the firm in 2004) and is Chair of the firm's Labor and Employment, Employee Benefits and Immigration Group. He also served as the General Counsel and Secretary to Agway, Inc., a Fortune 500 company, from 2002-04. In addition to his extensive experience before numerous Federal (EEOC, OFCCP, NLRB, DOL, etc.), State (NYS Division of Human Rights, NYS Department of Labor, etc.) and

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Mr. DiLorenzo is a former Chair of both the New York State Young Lawyer's Section and the Labor and Employment Law Section (and still serves on its Executive Committee), and is a former Editor of the New York State Bar Journal. He currently serves as co-chair of the Employment and Labor Relations Committee of the New York State Bar Association's Commercial and Federal Litigation Section and recently was appointed to the Bar Association's Task Force on Covid-19 Immunity and Liability. Mr. DiLorenzo is a prolific speaker and writer, appearing regularly on labor and employment law panels and as a conference keynote speaker, and his writings have appeared in the *Syracuse Law Review*, *Fordham Law Review*, *Journal of College and University Law*, *New York State Bar Association Bar Journal*, and the *Duke University Journal of Gender Law & Policy*, among other publications. Two of his articles in the *New York Bar Journal* have been cited with approval by the Supreme Courts of South Carolina and Michigan. He also has co-authored a guide for business managers and HR professions (*What Every Business Manager and HR Professional Should Know About . . . Federal Labor and*

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Mr. DiLorenzo has long been recognized by *Chambers*, *Best Lawyers in America*, and *Super Lawyers*, among others. He has been named to the Corporate Employment Lawyers Hall of Fame by Human Resource Executive and *Lawdragon*, included in *HR Executive Magazine's* list of "Top 10 Labor Lawyers," and named a Benchmark Litigation Labor & Employment Star. *Corporate Legal Times* has dubbed him "The Great Negotiator."

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Jeffrey Kehl brings 47 years of experience in labor and employment law to this book, including day-to-day employer counseling, workplace investigations, development of policies and procedures, negotiations, litigation, arbitration, mediation, discrimination and harassment training and defense, and general training for managers. A major portion of his work has been for educational institutions, both private and public, from pre-school through graduate programs; but he has also represented a variety of commercial entities including a major publishing conglomerate, and also numerous non-

profit social service providers. In 1983, he helped create, and has since continued to represent, a new and innovative multi-employer self-insured health benefits consortium. He joined Bond, Schoeneck & King as a member (partner) in 2014, when the law firm of which he was a name partner, specializing in the law of educational and non-profit institutions with a heavy emphasis on employment law, merged into Bond. A graduate of Princeton University (where he honed his editing and writing skills as an English major) and Columbia Law School, he first trained in labor and employment law at Kaye, Scholer, Fierman, Hays & Handler (now Arnold & Porter). He currently serves as President of the Board of Trustees of the Kneisel Hall Chamber Music School and Festival in Blue Hill, Maine.

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