

Daniel V. Johns
Partner

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Philadelphia



Areas of Focus

Litigation, Higher Education,
Labor and Employment, Health
Care

Ballard Way

Background & Experience

Daniel V. Johns is a member of the firm's Labor and Employment Group. Dan represents and advises employers and management in a variety of labor and employment issues, including discrimination, harassment, and other civil rights litigation; interest and grievance arbitrations; at-will litigation; restrictive covenant/trade secret claims; benefits litigation; independent contractor classification issues; collective bargaining; union avoidance; and unfair labor practice litigation before the National Labor Relations Board and state agencies.

Dan has handled matters before the U.S. Supreme Court and has argued cases in several U.S. Courts of Appeals. He also has served as lead trial counsel in litigation matters around the country, including claims brought under Title VII of the Civil Rights Act, the Age Discrimination in Employment Act (ADEA), the Americans with Disabilities Act (ADA), the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), the National Labor Relations Act (NLRA), the Employee Retirement Income Security Act (ERISA), as well as various other federal, state, and local employment laws. In the traditional labor context, Dan has served as chief spokesperson and lead negotiator in collective bargaining negotiations for employers in many different industries and regularly handles labor arbitrations on disciplinary and contract issues.

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Dan has significant experience serving the legal needs of research universities and institutions. He successfully represented several prominent universities in their graduate students' organization efforts. In addition, he has experience providing day-to-day traditional labor and employment counseling, as well as representation in employment litigation, for major universities and their health systems. Dan also advises university clients and handles claims involving faculty and student issues, including denial of tenure claims.

Representative Matters

- Has served on the SEPTA negotiating committee for every round of bargaining with Transport Workers Union since 1998 and regularly represents SEPTA in arbitration proceedings
- Successfully argued before U.S. Court of Appeals for Fourth Circuit to uphold summary judgment in FLSA case alleging illegal tip pooling for hotel and restaurant employees
- Successfully argued before U.S. Court of Appeals for Third Circuit to overturn substantial jury verdict in ADEA case on grounds of the improper admission of character evidence
- Represented large hotel and convention center in Washington, D.C., in traditional labor and employment matters
- Regularly represents several health systems in labor organizing matters, including NLRB representation petitions, and campaigns
- Represented national petroleum company in NLRB case that sought to divide national bargaining unit of energy workers
- Served as counsel for national telecommunications company in labor matters, including unfair labor practice proceedings around the country
- Represented university health system in class

represented university health system in class action under the FLSA raising employee misclassification issues

- Obtained summary judgment in numerous discrimination cases in federal district courts nationwide in various industries, including insurance, health care, and telecommunications

Pro Bono Experience

Dan regularly advises nonprofits and has provided pro bono legal services for the Community Learning Center for several years.

Professional Highlights

Professional Activities

Pennsylvania Bar Association

Labor Law Journal, Editorial Board

Pennsylvania Bar Institute, Planning Committees for Labor Law Symposium and Employment Law Institute

Board for Community Learning Center, Past President

Philadelphia Stories, Current Board Member

Recognition & Accomplishments

Chambers USA: America's Leading Lawyers for Business, labor and employment law, 2012-2017

The Best Lawyers in America, employment law, labor and employment litigation, 2012-2018

AV Peer Review Rating, Martindale-Hubbell

Publications

Co-author, "New NLRB General Counsel Signals Major Shift Away From Obama-Era Board Policies," Ballard Spahr alert, December 5, 2017

"The National Labor Relations Board's Misapplication of Weingarten Rights to Employer Substance Abuse Testing Programs," *Labor Law Journal*, Spring 2016

Co-author, "Northwestern Football Players Throw a "Hail Mary" But the National Labor Relations Board Punts: Struggling to Apply Federal Labor Law to the Academy," *Virginia Sports and Entertainment Law Journal*, 2015

"Playing with Cards: The Incompatibility of the Employee Free Choice Act and the National Labor Relations Board's Current Doctrines and Practices Governing Union Authorization Cards," *Labor Law Journal*, Spring 2009

"Action Should Follow Words: Assessing the Arbitral Response to Zero-Tolerance Workplace Violence Policies," *24 Ohio St. J. on Disp. Resol.*, 2009

"The Employee Free Choice Act: The Unanswered Questions," *Metropolitan Corporate Counsel*, November 2008

"Promises, Promises: Rethinking the NLRB's Distinction between Employer and Union Promises during Representation Campaigns," *10 U. Pa. J. Bus. & Emp. Law* 433, April 2008

"A Square Peg and a Round Hole: The Application of *Weingarten* Rights to Employee Drug and Alcohol Testing," *28 Pace L. Rev.* 33, 2007

Co-author, "Graduate Students, Unions and Brown University," *20 The Labor Lawyer* 243, 2004

Speaking Engagements

"NLRB Update for 2017: Back to the Future?" 2017 Ballard Spahr SEPA SHRM HR Legal Summit, September 14, 2017

"Labor and Employment Law as Seen through the Cinema," Ballard Spahr CLE, July 2017

"Labor and Employment Law as Seen through the Cinema," PBI Employment Law Institute, Philadelphia, April 2017

"Ask the Arbitrators," PBI Labor Law Symposium, Philadelphia, December 2016

"Affordable Care Act Implications for Colleges and Universities," Ballard Spahr webinar, March 2, 2016

"How the Arbitrators Rule-Social Media and Workplace Violence," 37th FMCS Arbitration Symposium, Atlantic City, New Jersey, 2016

"Ethical Survivor: Who Will be the Last Presenter Left on the Island?" PBI Employment Law Institute, Philadelphia, 2016

"You Be the Labor Board: Understanding the Ever-Expanding Reach of the NLRA to the Non-Union Workplace," PBI Employment Law Institute, Philadelphia, 2015

"Hot Topics in Higher Education Webinar," Ballard Spahr webinar, December 9, 2015

"Six Months into the Ambush Election Rules: What Do we Know?" Ballard Spahr webinar, October 21, 2015

"Unfair Labor Practices for the Non-Union Workplace," PBI Seminar, October 7, 2015

"NLRB Update," 2015 HR Legal Summit: Labor and Employment Law Compliance for Today's HR Professional, Ballard Spahr and SEPA SHRM conference, Langhorne, Pa., September 11, 2015

"Labor Board Landmark Ruling Affects Contract Workers," an interview on Marketplace, August 28,

2015

"Ask the Arbitrators," PBI Labor Law Symposium, Philadelphia, 2014

"You Be the Labor Board: Understanding the Ever-Expanding Reach of the NLRA to the Non-Union Workplace," Southeastern Pennsylvania SHRM Legal Summit, Langhorne, Pennsylvania, 2014

"The Arbitration of Statutory Claims: Ask the Arbitrators," PBI Employment Law Institute, Philadelphia, 2014

"The Wide Ranging Impact of the Noel Canning Decision on the NLRB," PBI Employment Law Institute, Philadelphia, 2013

"The NLRA and the Non-Union Workplace: Recent Developments," PBI Employment Law Institute, Philadelphia, 2013

"Ask the Arbitrators," PBI Labor Law Symposium, Philadelphia 2012

"Lights, Camera, You're Fired! The Scope of the Employment At-Will Doctrine in Pennsylvania," PBI Employment Law Institute, Philadelphia, 2012

"Labor and Employment Law Lessons from the Cinema," PBI Employment Law Institute, Philadelphia, 2011

"Ask the Arbitrators," PBI Labor Law Symposium, Philadelphia, 2010

"Agency and Legislative Update," National Employment Law Institute, Washington, D.C., 2010

"Labor Arbitration Advocacy, Case Preparation," American Arbitration Association, Atlantic City, New Jersey, 2010

"Traditional Labor Law Update," PBI Employment Law Institute, Philadelphia, 2010

"Teens in the Workplace Speak a Different Language," PBI Employment Law Institute, Philadelphia, 2009

"The Employee Free Choice Act: Why You Need to Care About It," Labor Law Symposium, Philadelphia, 2008

"Privacy in the Public Sector Workplace," National Employment Law Institute, Washington, D.C., 2008

"Is Today the Worst Day of Your Life? Human Resources Lessons to be Learned from the Movie 'Office Space'," PBI Employment Law Institute, Philadelphia, 2008

"The Trouble with Arbitrators," St. Joseph's University Comey Institute of Labor Relations, Philadelphia, 2008

"The Seven Tests of Just Cause: What Employment Lawyers and HR Professionals Can Learn from Labor Arbitration," PBI Employment Law Institute, Philadelphia, 2007

"Judicial Review of Grievance Arbitration Awards," Conference to Honor Pennsylvania Bureau of Mediation and Pennsylvania Labor Relations Board, 70 Years of Working Together, Harrisburg, 2007

"What Employment Lawyers Should Know About the NLRA," PBI Employment Law Institute, Philadelphia, 2006

"Labor Arbitration Appeals," Public Sector Labor Law Symposium, Mechanicsburg, Pennsylvania, 2005

"Workplace Violence," Industrial Relations Resource Association, Philadelphia, 2004

"Labor Arbitrations," Labor Law Symposium, Philadelphia, 2004

"The Student as Employee," National Association of College and University Attorneys, Minneapolis, 2003

"Employment Policies and the NLRA," PBI Employment Law Institute, Philadelphia, 2003

"Graduate Students and Unions," University of Delaware, Newark, Delaware, 2003

"Graduate Student Unionization," National Association of College and University Attorneys, Boston, 2002

"Evaluating Labor Arbitration Cases," PBI Employment Law Institute, Philadelphia, 2002

"Recognizing and Preventing Unfair Labor Practices for Union and Non-Union Employers," PBI Employment Law Institute, Philadelphia 2001

"The Far Reaching Impact of the FMLA," PBI Employment Law Institute, Philadelphia, 2000

Community Activities

Graduate, Philadelphia Leadership, a program designed to enhance civic knowledge and enrich leadership skills

Board Memberships

Community Learning Center (nonprofit organization providing literacy services to North Philadelphia residents), past former president

Philadelphia Stories (nonprofit organization that supports the writing, reading, and art community in Philadelphia), Board Member

Education

University of Virginia School of Law (J.D. 1995)
Notes Editor, *Virginia Environmental Law Journal*;
Member, Order of the Coif

University of Notre Dame (B.A. 1992, with highest honors)

Member, Phi Beta Kappa

Admissions

Pennsylvania

U.S. District Court for the District of Colorado

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

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

U.S. Court of Appeals for the Third Circuit

U.S. Court of Appeals for the Fourth Circuit

U.S. Supreme Court