



## Howard S. Lavin

### Partner

Howard S. Lavin uses a risk-management approach to help clients navigate complex, always-changing employment laws. He provides practical, business-savvy advice on employment issues involving discrimination and harassment, diversity, discipline and discharge of problem employees, downsizings, wage-and-hour matters, and the labor and employment ramifications of mergers and acquisitions.

Howard counsels a diverse group of clients across various industries, including insurance, entertainment, health care, finance and manufacturing. He also serves as outside general counsel for several not-for-profit organizations in the workers' compensation area, including a rate service organization. Howard represents clients in labor and employment litigation, managing workforce change, negotiating compensation and severance packages, and developing personnel policies and procedures. He regularly conducts management and supervisor training seminars on topics including sexual harassment, employment discrimination, conducting investigations and worker classification issues.

Howard serves as an officer and board member of several not-for-profit organizations, counseling small businesses and conducting workplace training.

*Best Lawyers in America* and *Super Lawyers* both have recognized Howard's stature within the labor and employment bar.

#### Memberships

- Member, Labor and Employment Section, New York State Bar Association

#### Speeches & Events

- Panelist, New York Compensation Insurance Rating Board's Annual Forum, *NYCIRB*, September 10, 2020
- Speaker, "Cybersecurity, Data Privacy and Workplace Risks in the New Normal," Stroock and CohnReznick Webinar, May 13, 2020
- Speaker, "Pandemic Not Panic: What Fund Managers Should Do Post-CARES Act," Stroock Webinar, April 9, 2020
- Speaker, "Navigating Employment Issues Amid Covid-19 Pandemic," Stroock Webinar, March 19, 2020
- Speaker, "The Reality of Sexual Harassment in the Workplace," The IRL School at Cornell University, October 24, 2019

#### New York

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#### Related Services

- Employment Law
- Family Office
- Government Affairs
- Mergers, Acquisitions and Joint Ventures
- White Collar & Internal Investigations

#### Education

- J.D., Emory University School of Law, 1982
- B.S., Cornell University School of Industrial and Labor Relations, 1979

- Speaker, “The GC’s Role in Creating an Ethical Business Culture,” Corporate Counsel’s 19th Annual SuperConference, Chicago, IL, May 21-22, 2019
- Speaker, “The New Workforce,” American Society of Workers Comp Professionals’ Annual Meeting, Las Vegas, NV, April 10-12, 2019
- Speaker, “Top Three Employment Law Challenges Facing Family Offices,” Stroock Family Office Symposium, New York, NY, November 8, 2018
- Speaker, “Preventing and Minimizing the Risk of Sexual Harassment in the Wake of the #MeToo Movement,” Ultimate Software HR Workshop, May 8, 2018
- Speaker, “Prevent, Detect, Correct: Creating and Sustaining a Work Environment Free from Unlawful Harassment and Unwanted Lawsuits,” Practising Law Institute, April 10, 2018
- Panelist, “Challenges in the World of #MeToo: Reacting Quickly and Responsibly,” Stroock & Stroock & Lavan LLP, March 20, 2018
- Panelist, “NYS Paid Family Leave Act,” ILR School Cornell University, November 29, 2017
- Speaker, “Human Resources Compliance,” AIPSO Regional Managers Meeting, October 18, 2016
- Speaker, “Employee vs. Independent Contractor: A Distinction With A Difference,” 2014 Annual AMCOMP Meeting, March 27-28, 2014
- Speaker, “Misclassified Workers: Employee or Independent Contractor?” New York State Society of Certified Public Accountants: Entertainment, Arts and Sports Committee Meeting, New York, NY, February 27, 2013
- Speaker, “Be Careful Who You ‘Like:’ Legal and Ethical Implications of Social Media Use in the Workplace and Employment and Labor Litigation,” Seton Hall Law School, February 5, 2013
- Speaker, “New York State Domestic Workers Bill of Rights and Wage Theft Prevention Act,” New York Tax Study Group, June 25, 2012
- Presenter, “The NLRB ‘Un-friended’ and Does Not ‘Like’ Your Company’s Social Media Policy,” Stroock Investment Management Group CLE, June 11, 2012
- Speaker, “Employee vs. Independent Contractor: A Distinction With a Difference,” Real Estate Board of New York, October 18, 2010
- Speaker, “Worker Misclassification,” Ultimate Software HR Workshop, June 17, 2010
- Speaker, “Recent Developments Under the ADA,” Continuing Legal Education Seminar, co-sponsored by Community Housing Improvement Program, Inc. and New York County Lawyers’ Association, March 3, 2010
- Presenter, “US Supreme Court Update,” Hartford Financial Products, Inc., July 29, 2008
- Speaker, “Investigating Discrimination and Harassment Claims,” New York Guard Continuing Legal Education Series, April 27, 2005

**Publications**

- Co-author, "Recent COVID-19-Related Employment Law

Developments," *Stroock Client Alert*, April 19, 2021

- Co-author, "Recent Changes to COVID-19 Related Laws and Guidelines," *Stroock Client Alert*, March 15, 2021
- Co-author, "New York State Department of Labor's New Guidance on COVID-19 Sick Leave," *Stroock Client Alert*, March 15, 2021
- Co-author, "New York State Department of Labor's New Guidance on COVID-19 Sick Leave," *Stroock Client Alert*, January 29, 2021
- Co-author, "Can Employers Require COVID-19," *Stroock Client Alert*, December 4, 2020
- Co-author, "New Requirements Now in Effect Under New York State Sick Law and New York City Paid Safe and Sick Time Act," *Stroock Client Alert*, November 18, 2020
- Co-author, "Governor Cuomo Announces Guidelines For Travelers To 'Test Out' of Mandatory Quarantine," *Stroock Client Alert*, November 2, 2020
- Co-author, "Key Considerations for Employers Returning to On-Site Work," *Stroock Special Bulletin*, September 9, 2020
- Co-author, "EEOC Nixes Return-to-Work Antibody Testing," *Stroock Special Bulletin*, June 18, 2020
- Co-author, "EEOC Addresses Important Return-to-Work Questions in New Guidance," *Stroock Special Bulletin*, June 16, 2020
- Co-author, "Key Considerations for Employers Returning to On-Site Work," *Stroock Special Bulletin*, June 15, 2020
- Co-author, "'Reopening' Considerations for Funds and Asset Managers," *Stroock Special Bulletin*, June 5, 2020
- Co-author, "EEOC Guidance on High-Risk Workers May Give Employers Pause," *Stroock Special Bulletin*, May 15, 2020
- Co-author, "EEOC Updates COVID-19 Guidance to Address Return to Work," *Stroock Special Bulletin*, May 1, 2020
- Co-author, "Employment Law Risks Related to Reopening Businesses," *Stroock Special Bulletin*, April 20, 2020
- Co-author, "CARES Act Expands Relief for Workers Affected by Pandemic," *Stroock Special Bulletin*, March 30, 2020
- Co-author, "Families First Coronavirus Response Act: Emergency Paid Sick Leave and Paid Family and Medical Leave Expansion Act Requirements," *Stroock Special Bulletin*, March 25, 2020
- Co-author, "What Cuomo's 'on PAUSE' Order Means for the Real Estate Industry," *Stroock Special Bulletin*, March 23, 2020
- Co-author, "Steps for Businesses to Consider as Coronavirus Spreads," *Stroock Special Bulletin*, March 3, 2020
- Co-author, "New DOL Overtime Rules to Take Effect in 2020," *Stroock Special Bulletin*, December 9, 2019
- Co-author, "New York State Expands Workplace Harassment and Discrimination Protections," *Employee Relations Law Journal*, November 8, 2019
- Co-author, "Gov. Cuomo Signs Law Expanding Harassment and Discrimination Protections," *Stroock Special Bulletin*, August 14, 2019

- Co-author, “New York State Again Expands Workplace Harassment and Discrimination Protections,” *Stroock Special Bulletin*, June 25, 2019
- Co-author, “SCOTUS: ‘A Rule May Be Mandatory Without Being Jurisdictional, and Title VII’s Charge-Filing Requirement Fits That Bill,’” *Stroock Special Bulletin*, June 12, 2019
- Co-author, “U.S. Department of Labor Issues FLSA Overtime Regulations,” *Stroock Special Bulletin*, March 12, 2019
- Co-author, “New York Revises Model Sexual Harassment Prevention Materials and Extends Time Frame for Anti-Harassment Training,” *Stroock Special Bulletin*, October 1, 2018
- Co-author, “New York State and New York City Issue New Compliance Mandates to Address Sexual Harassment,” *Stroock Special Bulletin*, September 13, 2018
- Co-author, “Employment Basics for Family Offices in New York,” *Stroock Special Bulletin*, August 15, 2018
- Co-author, “New York City Law Requiring Temporary Schedule Changes Becomes Effective July 18, 2018,” *Stroock Special Bulletin*, July 18, 2018
- Co-author, “Mayor de Blasio Signs ‘Stop Sexual Harassment in NYC Act,’” *Stroock Special Bulletin*, May 10, 2018
- Co-author, “Governor Cuomo Signs 2019 Budget Bill With Significant Provisions Addressing Workplace Sexual Harassment Claims,” *Stroock Special Bulletin*, April, 17, 2018
- Co-author, “Second Circuit Finds Sexual Orientation Discrimination Actionable Under Title VII,” *Stroock Special Bulletin*, March 7, 2018
- Co-author, “The Fourth Circuit Announces a New Test for Determining Joint Employer Liability Under the FLSA,” *Employee Relations Law Journal*, Winter 2017, Vol. 43, No. 3
- Co-author, “New York Paid Family Leave Law Takes Effect on January 1, 2018,” *Stroock Special Bulletin*, December 4, 2017
- Co-author, “U.S. Department of Labor To Revisit FLSA Overtime Regulations,” *Stroock Special Bulletin*, September 18, 2017
- Co-author, “Married on a Saturday and Fired on a Monday? The Seventh Circuit Holds That Title VII Prohibits Sexual Orientation Discrimination and Creates a Circuit Split,” *Employee Relations Law Journal*, Autumn 2017, Vol. 43, No. 2
- Co-author, “Splitting the Difference: Are Sub-Group Claims Cognizable Under the ADEA?” *Employee Relations Law Journal*, Summer 2017, Vol. 43, No. 1
- Co-author, “Are Class Waivers Enforceable? The Circuits are Split,” *Employee Relations Law Journal*, Spring 2017, Vol. 42, No. 4
- Co-author, “Recent Developments in U.S. Department of Labor Overtime Regulations and Impact for New York Employers,” *Stroock Special Bulletin*, January 11, 2017
- Co-author, “When Can a Manager Assert a Retaliation Claim Under the FLSA?” *Employee Relations Law Journal*, Winter 2016, Vol. 42, No. 3

- Co-author, "Intern or Employee? The Circuits Are Split," *Employee Relations Law Journal*, Autumn 2016, Vol. 42, No. 2
- Co-author, "Split Circuits: When are meals compensable under the Fair Labor Standards Act?" *Employee Relations Law Journal*, Summer 2016, Vol. 42, No. 1
- Co-author, "DOL Issues Sweeping Changes to FLSA Regulations," *Stroock Special Bulletin*, May 19, 2016
- Co-author, "New York Passes Landmark Employee Rights Laws," *Stroock Special Bulletin*, April 11, 2016
- Co-author, "Second and Fifth Circuits Split on Who is Entitled to Whistleblower Protection Under Dodd-Frank," *Employee Relations Law Journal*, Spring 2016, Vol. 41, No. 4
- Co-author, "When Is It Too Soon To Sue?" *Employee Relations Law Journal*, Winter 2015, Vol. 41, No. 3
- Co-author, "Ninth Circuit Splits on Overtime for Dealership Workers," *Employee Relations Law Journal*, Autumn 2015, Vol. 41, No. 2
- Co-author, "U.S. Supreme Court to Resolve Circuit Split over the Scope of Protection Provided by the Pregnancy Discrimination Act," *Employee Relations Law Journal*, Summer 2015, Vol. 41, No. 1
- Co-author, "New York City Puts Check On Employers' Use Of Consumer Credit History," *Stroock Special Bulletin*, May 18, 2015
- Co-author, "SEC Announces First Whistleblower Protection Case Based on Confidentiality Agreement: Employers Take Note – Do Your Employment-Related Documents Impede Employees' Ability to Engage in Whistleblowing Process?" *Stroock Special Bulletin*, April 8, 2015
- "Social Media: The New Big Tool for Union Organizing?" *Bloomberg/BNA–Labor and Employment Blog*, February 13, 2015
- Co-author, "New York State Amends the Wage Theft Prevention Act," *Stroock Special Bulletin*, January 12, 2015
- Co-author, "National Labor Relations Board Rules That Employers May Not Ban Non-Work Use of Employer-Provided Email," *Stroock Special Bulletin*, December 16, 2014
- Co-author, "Supreme Court Takes Up Judicial Review of EEOC Conciliation Efforts with Mach Speed," *Employee Relations Law Journal*, Winter 2014, Vol. 40, No. 3
- Co-author, "Can a For-Profit, Secular Corporate Employer Exercise Religion?" *Employee Relations Law Journal*, Spring 2014, Volume 39, No. 4
- Co-author, "New York City Employers Must Provide a Reasonable Accommodation for Pregnancy, Childbirth and Related Medical Conditions of its Employees," *Stroock Special Bulletin*, January 27, 2014
- Co-author, "Split Circuits: Are Volunteers 'Employees' for Purposes of Title VII?" *Employee Relations Law Journal*, Winter 2013, Vol. 39, No. 3
- Co-author, "Split Circuits: The Golden Rule," *Employee Relations Law Journal*, Autumn 2013, Vol. 39, No. 2
- Co-author, "Can Something Intangible Be a 'Thing of Value'? The Permissibility of Neutrality Agreements under The Labor Management

Relations Act,” *Employee Relations Law Journal – Split Circuits*, Summer 2013

- Co-author, “Split Circuits: The Accidental Amendment,” *Employee Relations Law Journal*, Spring 2013
- Co-author, “Are You My Supervisor? The Scope of Supervisory Authority Under Title VII,” *Employee Relations Law Journal*, Winter 2012
- “NLRB ‘Un-friended’ Your Company’s Social Media Policy,” *Global Reference Guide 2012: Employment & Human Resources*
- Co-author, “Circuits Split on Definition of a ‘Disability-Related Inquiry,’” *Employee Relations Law Journal*, Autumn 2012
- Co-author, “Questioning ‘Authority’: Courts Split on What it Means to Access Computers ‘Without Authorization’ Under the Computer Fraud and Abuse Act,” *Employee Relations Law Journal*, Summer 2012
- Co-author, “Prescription for Confusion: Second and Ninth Circuits Split on Exempt Status of Pharmaceutical Sales Representatives,” *Employee Relations Law Journal*, Spring 2012
- Co-author, “EEOC Issues Guidance on Consideration of Arrest and Conviction Records in Employment Decisions,” *Stroock Special Bulletin*, May 16, 2012
- Co-author, “Domestic Workers’ Bill of Rights and Wage Theft Prevention Act,” *Stroock Special Bulletin*, January 19, 2012
- Co-author, “Requirements for Notice and Acknowledgement of Pay Rate and Payday,” *Stroock Special Bulletin*, January 5, 2012
- Co-author, “Malicious Charges: Protected Activity or Punishable,” *Employee Relations Law Journal*, Autumn 2011
- Co-author, “Who Is an Employer for Purposes of MPPAA,” *Employee Relations Law Journal*, Summer 2011
- Co-author, “To Reassign or Not to Reassign,” *Employee Relations Law Journal*, Spring 2011
- Co-author, “Are Informal Complaints Protected Activity Under the FLSA Retaliation Provision?” *Employee Relations Law Journal*, Winter 2010
- Co-author, “Split Circuits: Do 100%-Healed Policies Violate The ADA?” *Employee Relations Law Journal*, Autumn 2010
- Co-author, “Split Circuits: Who is the Arbiter of Arbitrability?” *Employee Relations Law Journal*, Summer 2010
- Co-author, “Split Circuits: Are Compensatory Damages Available for ADA Retaliation Claims?” *Employee Relations Law Journal*, Spring 2010
- Co-author, “Split Circuits: Circuits Split on Whether Two-Member NLRB Decisions Are Binding,” *Employee Relations Law Journal*, Winter 2009
- Co-author, “Split Circuits: Supreme Court’s Denial of Certiorari in *Hervey* Leaves Circuits Not ‘Similarly Situated,’” *Employee Relations Law Journal*, Autumn 2009



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- Co-author, “Split Circuits: Does the ADEA Require Direct Evidence in Mixed Motive Cases?” *Employee Relations Law Journal*, Summer 2009
- Co-author, “*Vail v. Raybestos*: Seventh Circuit Supports ‘Honest Suspicion’ Defense,” *EmploymentLaw360*, November 14, 2008
- Co-author, “Split Circuits: Does Charging Party’s Receipt of a Right-To-Sue Letter and Commencement of a Lawsuit Divest the EEOC of its Investigative Authority over That Charge?” *Employee Relations Law Journal*, Winter 2008

### Admitted To Practice

New York

U.S. District Court, Eastern District of New York; U.S. District Court, Southern District of New York

### Honors & Awards

- *Best Lawyers in America*