



## Keith J. Gutstein

### Overview

Keith Gutstein concentrates his practice in labor and employment law on behalf of management and employment practices liability. Mr. Gutstein, who is rated AV® Preeminent™ by Martindale-Hubbell, regularly counsels clients in all issues arising from the employer-employee relationship, including the defense of employment discrimination and sexual harassment matters, compliance with workplace regulations and employment statutes, wage and hour lawsuits, retaliation, wage and hour audits initiated by both the New York State and United States Department of Labor, and investigations commenced by various civil rights agencies, such as the Equal Employment Opportunity Commission and the New York State Division of Human Rights. He also develops corporate policies and procedures, employee handbooks, employment applications, employment contracts, and restrictive covenants for use by employers, and offers training to clients on employment law compliance, including sexual harassment avoidance.

In addition to Mr. Gutstein counseling clients on many day-to-day workplace issues and how to prevent claims from arising, he is also well-versed in the numerous federal and state employment regulations arising out of the COVID-19 pandemic, including planning for and addressing issues that arise when workers return to the workplace.

When not providing daily counsel to the firm's management clients, Mr. Gutstein regularly represents employers in both New York and federal court in employment discrimination, hostile work environment, sexual harassment, and wage and hour litigation (involving both individual and class-action matters).

Mr. Gutstein represents companies in various industries, including restaurants and catering halls, manufacturing, retail businesses, and education.

As an active member of the community, Mr. Gutstein serves as a Board Member of the Holocaust Memorial and Tolerance Center of Nassau County, and is a member of its Executive Committee.

Born and raised on Long Island, Mr. Gutstein is a graduate of the University of North Carolina at Chapel Hill, and is an avid Tarheels fan.

### Admissions

- New York
- U.S. District Court



Co-Managing Partner of Long Island, NY  
Office  
Co-Chair of Labor & Employment Law Practice  
Group

### Contact Information

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### Related Practices

- Labor and Employment Law
- Employment Practices Defense Litigation
- Wage & Hour Compliance
- Human Resources Counseling and Training
- Personnel Policies, Employment Agreements, Restrictive Covenants
- Whistleblower Claims
- Class & Collective Action Defense
- Management-Labor Matters
- Union Arbitrations and Grievances
- Education
- Hospitality, Entertainment & Gaming
- Hospitality

- *Eastern District of New York*
- *Southern District of New York*

## *Education*

- *New York Law School, J.D., cum laude*
- *University of North Carolina, Chapel Hill, B.A*

## *Professional Memberships*

- *New York State Bar Association*
- *Holocaust Memorial and Tolerance Center Nassau County, Executive Committee, Board Director*
- *Business Information Network (BIN), Long Island Chapter- Board of Directors*

## *Experience*

## *Community Service*

- *Holocaust Memorial and Tolerance Center of Nassau County - Officer*
- *Holocaust Memorial and Tolerance Center of Nassau County - Board Member, 2018 Honoree*
- *Holocaust Memorial and Tolerance Center of Nassau County, Board of Directors and Chairperson of the 21st Annual Tribute Dinner*
- *The Don Monti Memorial Research Foundation, Inaugural Golf Event Committee Member*

## *Awards*

## *Recognition*

- *AV® Preeminent™ Rated by Martindale-Hubbell*
- *Recognized in The Best Lawyers in America®, 2024, Employee Benefits (ERISA), Employment - Individuals, Employment - Management*
- *Long Island Business News, Leadership in Law Award / Partner (2019)*
- *Holocaust Memorial and Tolerance Center of Nassau County Legacy Award Honoree (2018)*
- *Hewlett-Woodmere Alumni Association Hall of Fame (2017)*
- *United Jewish Appeal (UJA) Federation of New York, South Shore Inaugural Honoree (2014)*
- *New York Metro Super Lawyers (2013)*
- *"Who's Who in Intellectual Property and Labor Law," Long Island Business News (2010)*
- *40 Under 40, Long Island Business News (2008)*
- *Adelphi Academy's "Man of the Year" (2007)*

## Publications

- *Keith Gutstein quoted in Tech Target; Pay Transparency Laws Could Soon Cover 20% of Americans*, 11-21-2022
- *Spies Among Us: How Bosses Remotely Monitor Work-From-Home Employees*, *NEWSDAY*, quote by Keith Gutstein, Esq., 3-16-2022
- *What Businesses Need To Know About Changes to NY Whistleblower Law*, *Newsday*, featuring, Keith Gutstein
- *NY Sex Harassment Laws May Get Updated Under New Gov., Law360*, August 25, 2021, featuring Keith Gutstein, Esq.
- *Jericho resident honored by Holocaust Memorial & Tolerance Center, The Syosset Advance*, 8-12-21, featuring Ivan Dolowich
- *Amendments to the New York City Fair Chance Act Further Complicate the Hiring Process for New York City Employers*
- *Is This Really The "Hero" We Were Waiting For? An Employer's Guide To The NY HERO Act*
- *Chatting About Online Mediations, CLM*, Keith Gutstein
- *What businesses need to know about workplace posting compliance for remote workers*, *Newsday*, ft. Keith Gutstein
- *New York Employers Rejoice: Unemployment Insurance Charges Related to COVID-19 Cancelled*
- *DOL releases guidance on tracking remote employee hours*, *Newsday*, ft. Keith Gutstein
- *Back to School: U.S. Department of Labor Guidance for Leave Requests Under the Families First Coronavirus Relief Act (FFCRA)*
- *BUSTED: New York Department of Labor Thwarts Over \$1 Billion in Unemployment Insurance Fraud Claims Amid the Coronavirus Pandemic*
- *The U.S. Supreme Court's Expansion of the "Ministerial Exception" Covers More than Just Ministers in Federal Discrimination Claims*
- *De Facto Liquidated Damages Policy Defunct: A New U.S. Department of Labor Policy Changes the Game in Pre-Suit FLSA Settlements*
- *Small Business: Wage issues employers should keep on their radar as they reopen*, *Newsday*, ft. Keith Gutstein
- *REMINDER: New York Employers Must Submit Affirmation to State When Reopening*
- *REMINDER: New York Employers Must Submit Affirmation to State When Reopening*
- *Bringing Select Workers Back Carries Litigation Risks: Experts*, *BusinessInsurance*, ft. Keith Gutstein
- *House Passes Bill Containing Changes to FMLA, FLSA and other Employer Policies, in Response to Coronavirus Pandemic*
- *Beware of changing small business employment laws, Chiropractic Economics*
- *The New York Appellate Division Has Created A New Avenue of Wage and Hour Liability for New York Employers*
- *End of the Summer Recap: Mandatory Sexual Harassment Training, Expansive Changes to the New York State Human Rights Law and New York City Human Rights Law, New Measures to Secure Payment of Earned Wages, and More Changes Facing New York Employers.*
- *Hair Bias Bans Mean Employer Grooming Rules Need Review*, *Law360*, ft. Keith Gutstein
- *New York Anti-Discrimination Law Heightens Risks for Employers*, *Business Insurance*, ft. Keith Gutstein
- *Dealing With Mental Illness Issues in the Workplace*, *Newsday*, ft. Keith Gutstein

- *5 Takeaways As NY Toughens Workplace Sex Harassment Law, Law360, ft. Keith Gutstein*
- *New Legislation May Open The Floodgates For More Harassment Claims Under The NYSHRL*
- *Federal Wage and Hour Labor Laws May Confuse Healthcare Employers, Healthcare Risk Management, ft. Keith Gutstein and Taylor Ferris*
- *KD Alert: New York City Council Votes to Further Limit Pre-Hire Screening*
- *New York City Council Passes Ban on Pre-Employment Testing for Marijuana, SHRM, ft. Keith Gutstein*
- *2 Policy Developments Employers Need To Know, Law360 ft. Keith Gutstein*
- *4 Ways Grooming, Dress Policies Can Be Legally Unkempt, Law360, ft. Keith Gutstein*
- *NYC Bans Employment Discrimination Based on Hairstyle, HRDive, ft. Keith Gutstein*
- *KD Employment Alert: NYC Mayor Announces Proposal to Require Employers to Provide Paid Vacation*
- *KD Alert: New York Employment Law Changes for 2019*
- *Updated DOL Guidelines Ease Requirement To Pay Interns*
- *A Victory for Employers - SCOTUS Condonates Class Action Waivers*
- *New York State and New York City Pass New Requirements for Employers to Combat Sexual Harassment*
- *New York Employers Must Provide Sexual-Harassment Training, SHRM, ft. Keith Gutstein*
- *Tip Credit Reconsideration Begins in N.Y, Restaurant Business , ft. Keith Gutstein*
- *Interactive Training Helps Avoid Sexual Harassment Claims, Dentist's Money Digest, ft. Keith Gutstein*
- *#MeToo in Vet Med: Shining a light on sexual harassment and assault, DVM360, ft. Keith Gutstein*
- *Sexual Harassment: Health Care, It Is #YouToo, Managed Care, ft. Keith Gutstein*
- *Tread carefully when screening potential hires, experts say, Newsday, ft. Keith Gutstein*
- *Paid family leave takes effect Jan. 1 ; employers should be ready, Newsday, ft. Keith Gutstein*
- *10 Steps to Help Make Your Practice Labor Compliant, Physician's Practice, by Keith Gutstein*
- *An Employment Wellness Check for Medical Practices, Healthcare Business Today by Keith Gutstein*
- *The U.S. Department of Labor Issues New Overtime Regulations Affecting Millions of U.S. White Collar Workers*
- *Checking with Social Media to Screen Job Applicants, Newsday, ft. Keith Gutstein*
- *Small Business: getting a job candidate's references to provide insight, Newsday, ft. Keith Gutstein*
- *Attorney's React To DOL Misclassification Guidance, Law360, ft. Keith J. Gutstein*
- *Rankled Business Community Feeling Overbilled by Council, Crain's NY Business, ft. Keith Gutstein*
- *Small Business: Paid sick-leave benefits, Newsday ft. Keith Gutstein*
- *EEOC updates guidelines on pregnancy discrimination, Newsday ft. Keith Gutstein*
- *Small Business: Have a clear termination policy for employees, Newsday, ft. Keith Gutstein*
- *Obama Proposes Shrinking White-Collar Exemption, SHRM, ft. Keith Gutstein*

- *Extreme Team Building, HR Executive Online, ft. Keith Gutstein*
- *City's Misguided Law on Unemployment Discrimination, New York Law Journal*
- *NYC Adopts Tough Jobless-Discrimination Law, The Associated Press, ft. Keith Gutstein*
- *Small Business: Updating employee handbooks, Newsday, Keith Gutstein*
- *Court: EEOC Can't Breach Statute of Limitations, Human Resource Executive Online, Keith Gutstein*
- *Gray Thursday: Increased Sales, or Black Friday Suicide?, Minyanville, ft. Keith Gutstein*
- *Scope of NY payroll deductions broadens, Newsday, ft. Keith Gutstein*
- *Small Business Using Noncompete Clauses, Newsday, ft. Keith Gutstein*
- *How Documenting Can Keep You Out of Court, QSR Magazine , ft. Keith Gutstein*
- *Legislative Update, NYSBA Labor and Employment Law Newsletter*

## News

- *Employee or Independent Contractor: Understanding the DOL's New Worker Classification Rule, by Keith J. Gutstein, Esq. and Alisha Talati, Law Clerk, 3-6-2024*
- *Minimum Wage and Salary Threshold Increases Now in Effect for New York Employers, 1-3-2024*
- *Law Alert: New York Imposes New Restrictions on Release Agreements Involving Discrimination, Harassment, or Retaliation Claims, 12-6-2023*
- *Law Alert: New Obligations for New York Employers, 10-23-2023*
- *Law Alert: "New York State Pay Transparency Law Goes Into Effect," by Alina Nadir, Esq. and Keith Gutstein, Esq. 9-18, 2023*
- *Law Alert: Pivotal U.S. Supreme Court Ruling Impacting Workplace Religious Accommodation Requests, by Partners Keith Gutstein and Matthew Cohen, 9-12-2023*
- *Non-Compete Ban in New York Awaits Governor's Signature, by Keith J. Gutstein and Amanda B. Slutsky, 7-19-2023*
- *NYC Bans Height and Weight Discrimination*
- *Complying With New York State's Lawful Absence Law, Keith Gutstein 5/4/2023*
- *Supreme Court of the United States Rules Some High-Earning Executives May Be Entitled to Overtime, Keith Gutstein, Kevin Yombor 3/27/2023*
- *Federal Trade Commission Seeks to Ban Non-Compete Clauses in Employment Agreements, by Keith Gutstein, Matthew Cohen and Taylor Ferris, 2-23-2023*
- *Employer Alert: New York City Salary Range Transparency Law to Take Effect on November 1, 2022*
- *New York State Bill Mandating Salary Range Disclosure by Employers Awaits Governor's Signature*
- *New York State Launches Workplace Sexual Harassment Complaint Hotline: 1-800-HARASS-3*
- *EMPLOYER ALERT: Governor Hochul Ushers in Sweeping Changes to Workplace Discrimination, Harassment, and Retaliation Laws*
- *Employer Update: New York State Labor Law 740 Posting Requirement*
- *EMPLOYER ALERT: New York City Pay Transparency Law Requires Employers to Include Salary Range in Job Postings*
- *KD Noted as Leading Defense Law Firm in Americans with Disabilities Act Website Claims*

- *EMPLOYER ALERT: NEW YORK CITY ISSUES ADDITIONAL GUIDANCE ON THE "KEY TO NYC" PASS FOR PRIVATE SECTOR EMPLOYERS*
- *EMPLOYER ALERT: AMENDMENT TO NEW YORK CITY HUMAN RIGHTS LAW EXPANDS RIGHTS FOR DOMESTIC WORKERS*
- *EMPLOYER ALERT: New York Employers Must Notify Employees of Electronic Monitoring*
- *EMPLOYER ALERT: Amendments to the New York State Whistleblower Statute Dramatically Expands Potential Employer Liability*
- *OSHA Issues Rule Requiring Companies With 100 Or More Employees to Mandate COVID Vaccination or Weekly Testing as Condition of Employment, November 4, 2021*
- *Ivan Dolowich, Kaufman Dolowich Co-Managing Partner, Elected to the Holocaust Memorial & Tolerance Center's Board of Directors*
- *EMPLOYERS MUST PROMPTLY IMPLEMENT THEIR WORKPLACE SAFETY PLANS UNDER THE NEW YORK HERO ACT, KD Law Alert, Oct. 11, 2021*
- *EMPLOYERS MUST PROMPTLY IMPLEMENT THEIR WORKPLACE SAFETY PLANS UNDER THE NEW YORK HERO ACT, KD Law Alert, Sept. 15, 2021*
- *KD Alert: OSHA Recommends Employers Consider Adopting COVID-19 Vaccination Policies*
- *Jericho resident honored by Holocaust Memorial & Tolerance Center, The Syosset Advance, 8-12-21, featuring Ivan Dolowich*
- *Amendments to the New York City Fair Chance Act Further Complicate the Hiring Process for New York City Employers*
- *Ivan Dolowich, Co-Managing Partner, to be Honoree at Holocaust Memorial & Tolerance Center 12th Annual Golf Outing*
- *Is This Really The "Hero" We Were Waiting For? An Employer's Guide To The NY HERO Act*
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- *REMINDER: New York Employers Must Submit Affirmation to State When Reopening*
- *Bringing Select Workers Back Carries Litigation Risks: Experts, BusinessInsurance, ft. Keith Gutstein*
- *House Passes Bill Containing Changes to FMLA, FLSA and other Employer Policies, in Response to Coronavirus Pandemic*
- *KD Alert: New York Labor Law Now Prohibits Discrimination Based on an Employee's or Employee's Dependent's Reproductive Health Decision Making*
- *KD Alert - End of An Era: Say Goodbye to the Tip Wage for Workers in Miscellaneous Industries*



- *KD Employment Law Alert: The U.S. Department of Labor Issues New Overtime Regulations*
- *The New York Appellate Division Has Created A New Avenue of Wage and Hour Liability for New York Employers*
- *KD Alert: Employers in New York City Now Mandated By Law To Engage In A "Cooperative Dialogue" With An Employee Requesting An Accommodation And Provide Written Documentation*
- *KD Alert: New York State Issues Final Guidance for Requirements Going Into Effect On October 9, 2018*
- *KD Alert: Important Deadlines for New York State and New York City Laws Combatting Sexual Harassment*
- *Updated DOL Guidelines Ease Requirement To Pay Interns*
- *A Victory for Employers - SCOTUS Condone Class Action Waivers*
- *Long Island Hires and Promotions, Newsday, ft. Keith Gutstein*
- *KD Employment Law Alert: NYC Set to Ban Salary History Inquiries – What Employers Need to Know*
- *KD Employment Law Alert: Minimum Wage Increases Only Days Away For New York Employers*
- *KD Employment Law Alert: Federal Judge Halts Implementation of Regulations Set to Increase Overtime Eligibility*
- *KD Employment Alert: 100 Days Until New DOL Overtime Exemption Regulations Take Effect*
- *KD Employment Law Alert: New York Employers Now Prohibited from Discriminating against Employees based on their Relationships or Associations*
- *KD Employment Law Alert: Joint Employer Standard Continues to Expand*
- *KD Employment Law Alert: New York City Employers Will Be Required To Offer Employees Pretax Transit Benefits*
- *KD Employment Alert: Department Of Labor Proposes To Expand Overtime Coverage*
- *KD Employment Alert: New York City Businesses Face New Restrictions On Pre-Employment Criminal Background Checks*
- *KD Alert: Chicago Minimum Wage Increase Takes Effect July 1, 2015*
- *KD Alert: U.S. Supreme Court Rules Against Abercrombie in Religious Garb Case – Sets New Standards of Employer Liability.*
- *KD Alert: NLRB - Your Employee Handbook Policies May be Unlawful!*
- *KD Alert: New York Employers Given Relief From Annual Pay Notice Requirement*
- *KD Alert: New York State Minimum Wage to Increase on December 31, 2014*
- *KVD Alert: May 1 Deadline for Earned Sick Time Act Compliance Looms for NYC Private Employers*
- *KD Alert: President Obama to Issue Executive Order Limiting Overtime Exemptions and Expanding the Number of Employees Eligible to Receive Overtime Pay*
- *KD Alert: New NYC Earned Sick Time Law To Require Additional Benefits for Employees*
- *KD Alert: New York City Broadens Protections for Pregnant Employees in the Workplace*
- *KD Alert: Employers to Comply With Affordable Care Act Notice Obligation by October 1st*
- *KD Alert: Eagerly-Awaited Decision a Boon to Business?*
- *KD Alert: UNemployment Discrimination: NYC Employers First in Nation to Face Private Suits by the Jobless*
- *KD Alert: "Un"- Employment Discrimination? New York City Employers May Soon Face New Discrimination Claims from Unemployed Applicants*

- *KD Alert: Helpful Information for Employers and EPL Carriers in Sandy's Aftermath*
- *KD Alert: New NYS Law Expands Permissible Deductions from Employee Wages*
- *KD Alert: NLRB Posting Rule Blocked*
- *KD Alert: US EEOC Continues to Break Its Own Records*
- *KD Alert: U.S. Supreme Court "Expands" Employee Anti-Retaliation Protections*
- *KD Alert: New NY State Department of Labor Wage Order for Restaurant and Hotel Workers Takes Effect on Jan. 1, 2011*

## Speaking Engagements

- *KD Partner Keith Gutstein Introduces Distinguished Speakers*
- *KD Lunch and Learn: Legal Impact for Employers and Businesses in Today's World: Legal Impact for Employers and Businesses in Today's World*
- *New Federal Bar Association EDNY Program: Second Fair Labor Standards Act Update: "Cheeks 2.0" - Keith Gutstein, Co-Presenter*
- *Long Island Hospitality and Leisure Association's 2017 Kickoff Meeting, Keith Gutstein, Speaker: Employment Law (Minimum Wage Increases, Exempt Employees vs. Non-Exempt and New York State Family Leave Compensation)*
- *ADP: Wage and Hour Update, Keith Gutstein, Presenter: What Employers Must Know*
- *IMA Panel Discussion, Keith Gutstein, Presenter: Best Practices for Hiring and Firing*
- *ADP: Wage and Hour Update, Keith Gutstein, Presenter: How Can Employers Protect Themselves*
- *FBA-EDNY's First Fair Labor Standards Act Update, Keith Gutstein, Presenter: Life After Cheeks*
- *PBI Payroll - IMA Panel Discussion - Keith Gutstein, Co-Presenter: Best Practices for Hiring and Firing*
- *Jimmy Wagner Business Services: CPE Seminar, Keith Gutstein, Presenter: Employment Update: Incorporating Latest Developments in Wage and Hour Compliance, and Discrimination Laws*
- *Historic HMTTC Event - Keith Gutstein, Moderator: Generations: An Event Honoring Survivors, Liberators, Righteous Among Nations, and their Descendants*
- *JW Business Services - CPE Seminar - Employment Law, Keith Gutstein, Presenter: Employment Law: A Guide for the CPA & Their Business Owner Clients*
- *Continuing Professional Education for Indus American Bank: What Every Employer Expects Their Accountant to Know*
- *Long Island Network of Accountants - Employment Law, Keith Gutstein, Presenter: New Wage and Hour Trends and Regulations*
- *Meeting of the 2nd Generation Group, Children of the Holocaust, Presentation by Keith Gutstein: 3rd Generation Mindset*
- *Empire State Bank CPE Seminar: Employment Law: A Guide for the CPA and Their Business Owner Clients*
- *Panel Discussion FLSA, Construction Financial Management Association, Keith Gutstein, Presenter: Fair Labor Standards Act*
- *Provident Bank Accounting Symposium: What Every Employer Expects Their Accountant to Know*
- *Subcontractor Trade Association's SPECIAL BREAKFAST SEMINAR: Risk Avoidance: RISK AVOIDANCE: Protecting Yourself Against Allegations of Discrimination, Harassment and Wage & Hour Violations*
- *ADP Human Resources Forum - Keith Gutstein, Presenter*



- *ADP Solution Revolution: Risk Avoidance: Protecting Yourself Against Allegations of Discrimination, Harassment and Wage & Hour Violations.*