



Allen B. Roberts

Member of the Firm

New York

875 Third Avenue
New York, New York 10022
Tel: 212-351-3780
Fax: 212-878-8600

aroberts@ebglaw.com

ALLEN B. ROBERTS is a Member of Epstein Becker Green.

Mr. Roberts represents public and privately held domestic and international businesses and not-for-profit organizations in developing and effectuating strategy and policies in employment law and labor relations matters. Leading the firm's representation of several national and multinational clients, Mr. Roberts combines experience and perspective as a hands-on litigator and advocate with strategic advice and counsel.

In addition to counseling on labor and employment compliance, litigation avoidance and strategy, and case management, Mr. Roberts also represents clients in related judicial, administrative, and arbitration proceedings involving:

- Wage and hour class and collective actions
- Whistleblowing compliance and defense of retaliation claims
- Collective bargaining and withdrawal liability issues associated with multiemployer plans
- Revisions to retiree benefits programs affecting union-represented and non-represented participants, and related proceedings
- Prevailing wage and living wage obligations
- Challenges to independent contractor classifications and related claims of employee status and entitlement to employment benefits
- Employment agreement formulation and enforcement
- Restrictive covenants and non-solicitation obligations
- Employment discrimination and retaliation
- Union relations and maintaining union-free status
- Unfair labor practices and related United States Court of Appeals enforcement proceedings

Mr. Roberts' recent cases establishing important precedents include:

- *Campbell, et al. v. Empire Merchants, LLC* – Won summary judgment dismissal of putative collective and class action claims seeking compensation for time that employees supplementing an employer's regular workforce on an as-need basis waited during a "shape-up" procedure to learn if work assignments would be received, 2019 U.S. Dist. LEXIS 86172, 2019 WL 2206065 (E.D.N.Y., May 18, 2019) (adopting Magistrate Judge's Report and Recommendation, 2018 U.S. Dist. LEXIS 146510 (E.D.N.Y., Aug. 27, 2018))
- *Swanson, et al. v. Manhattan Beer Distributors LLC, et al.* – Won summary judgment dismissal of putative collective and class action claims that commissions earned by delivery drivers and helpers should be included in calculation of overtime pay by establishing that the Motor Carrier Act grants overtime pay exemption from the Fair Labor Standards Act (FLSA) and New York State Labor Law, 2018 U.S. Dist. LEXIS 218219 (E.D.N.Y., June 28, 2018); successfully opposed motion for class-wide discovery of claim asserting unlawful payroll deductions for driver shortages, 2018 U.S. Dist. LEXIS 170228 (E.D.N.Y., Oct. 2, 2018); successfully averted conditional certification of FLSA overtime pay collective action (2017)
- *Mills v. Standing General Commission on Christian Unity, et al.* – Won summary judgment dismissal of a breach of contract claim by a minister against a church organization by establishing the First Amendment Establishment Clause and Free Exercise Clause as a bar to secular court litigation, 39 Misc. 3d 296 (Sup. Ct. N.Y. Cty. 2013), *affirmed*, 117 A.D.3d 509 (1st Dep't 2014)
- *Duraku, et al. v. Tishman Speyer Properties, Inc.* – Won stay of federal court proceedings and order compelling arbitration of employment claims, 714 F. Supp. 2d 470 (S.D.N.Y. 2010); won appellate court confirmation of arbitration award dismissing all claims, *Matter of Duraku v. Tishman Speyer Props., L.P.*, 133 AD3d 525 (1st Dep't 2015)
- *Local 917 of the Int'l Bhd. of Teamsters v. NLRB* – Won National Labor Relations Board proceeding and United States Court of Appeals enforcement, holding that a union unlawfully pursued arbitration to retain jurisdiction of work assignments for the transportation of wine and spirits to the warehouse of a distributor after the supplier introduced "delivered pricing," whereby delivery from ports and other terminals was included in the supplier's pricing. The union's efforts to enforce a contractual work preservation clause in arbitration were held to be an unlawful secondary boycott in violation of Section 8(e) of the National Labor Relations Act, 577 F.3d 70 (2d Cir. 2009), *enforcing* 345 NLRB 1010 (2005)

Since 2013, Mr. Roberts has:

- Participated for parties in merger, acquisition, joint venture, and strategic investment transactions having a combined value of more than \$12 billion, performing labor, employment, and ERISA due diligence analysis, strategizing terms, negotiating and drafting transaction agreements and accomplishing post-closing objectives in varied industries, with complex issues of employee, union, and defined benefit fund considerations

- Represented developers, owners, operators, and managers of commercial, residential, hotel, retail, distribution, and manufacturing projects totaling more than 17 million square feet in matters concerning prevailing wages, living wages, or labor peace agreements

Consistent with the breadth of his practice, Mr. Roberts has lectured and written on such diverse employment law topics as mergers and acquisitions, facility closings and relocations, Equal Employment Opportunity, disabilities accommodation and compliance, management of investigations, and governance and whistleblower issues. Mr. Roberts' publications include the Labor & Employment Part of Clark Boardman Callaghan's *Attorney's Desk Library* and featured articles in journals and periodicals.

Reflecting the confidential opinions of members of the judiciary and practicing attorneys, Mr. Roberts has the distinction of receiving an "AV Preeminent" rating by Martindale-Hubbell in both the Judicial Edition and the Peer Review editions, signifying the highest level of professional excellence. He has also been selected by his peers for inclusion in *The Best Lawyers in America*® (2006 to 2021) in the fields of Employment Law—Management and Labor Law—Management and named to the *New York Metro Super Lawyers* list (2006 to 2019) in the areas of Employment & Labor and Employment Litigation: Defense.

With his wife, Heidi, Mr. Roberts is a founder of the U.S. Friends of Hoedspruit Endangered Species Centre, Inc., supporting programs in South Africa for breeding, care, and research for individual animals and entire species and for outreach to South African schools and community organizations. From 1995 to 2011, Mr. Roberts served as chair of the board of Aging in New York Fund, Inc., a not-for-profit organization established by the New York City Department for the Aging to promote productive aging and enhance the quality of life of older New Yorkers and their families.

Education

- Temple University School of Law (J.D., 1971)
- The Wharton School of The University of Pennsylvania (B.S., 1966)

Court Admissions

- Supreme Court of the United States
- U.S. Court of Appeals for the District of Columbia Circuit
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York
- U.S. District Court, Western District of New York

Bar Admissions

- New York
- Pennsylvania

Practice Areas

- Corporate Governance
- Diversity & Inclusion/Dodd-Frank Compliance
- Employment Litigation
- ERISA and Benefit Plan Litigation
- Labor Management Relations
- Mergers, Acquisitions & Divestitures
- Wage and Hour
- Whistleblowing and Compliance