



James S. Frank

Member of the Firm

New York

250 Park Avenue
New York, New York 10177
Tel: 212-351-3720
Fax: 212-878-8750

jfrank@ebglaw.com

JAMES S. FRANK is a Member of the Firm in the Health Care & Life Sciences, Litigation, and Employment, Labor & Workforce Management practices in the firm's New York office. Mr. Frank is recognized for his knowledge of labor and employment issues affecting the health care industry.

Mr. Frank has served as trial and appellate counsel before state and federal courts, and has appeared before state and federal regulatory agencies, such as the National Labor Relations Board (NLRB) and the New York State Division of Human Rights. He also has represented employers as a chief negotiator in collective bargaining and has defended employers in hundreds of arbitration cases brought by unions.

Mr. Frank:

- Represents major academic medical centers, community hospitals, nursing homes, home health care agencies and other providers of health care, as well as businesses and corporations in the fashion, manufacturing, retail and banking industries, in both litigation and labor and employment matters
- Guides employers in representation proceedings before the NLRB
- Defends employers as lead trial counsel against discrimination claims in federal and state courts
- Represents management in traditional labor matters, including collective bargaining, arbitrations and strike management, and responses to corporate campaigns
- Negotiates collective bargaining agreements with unions and represents hospitals in arbitrations
- Counsels employers on workforce reductions and all facets of their workforce efficiency issues
- Advises employers in defense of union-initiated "corporate campaigns" and other non-traditional organizing efforts
- Advises public work contactors regarding compliance with prevailing wage laws, Section 220 of the New York State Labor Law and the Davis Bacon Act
- Counsels corporate employers regarding successorship liability

Mr. Frank's past experience includes the following:

- Successfully defended an academic medical center against class action allegations regarding the alleged failure to provide sufficient non-compensated charity care to maintain its tax exempt status
- Successfully defended an action by U.S. Attorney General for production of patient medical records
- Served as the chief negotiator for a hospital in a successful renegotiation of a collective bargaining agreement with nurses
- Successfully defended a federal false claims act *qui tam* action against a hospital before a federal jury
- Successfully defended a nursing home in establishing that charge nurses are supervisors under the NLRA
- Successfully defended in federal and state courts race, sex, national origin, sexual harassment, disability, and age discrimination cases, employee benefit disputes, federal and state contract compliance matters, and health and safety cases
- Successfully defended corporate client in establishing that ERISA pre-empts enforcement of the New York State Prevailing Wage Law Supplement provisions
- Served as the chief spokesman for a hospital in a negotiation of Pension Protection Act adjustments to a collective bargaining agreement
- Successfully represented employers in decertification and deauthorization proceedings before the NLRB
- Successfully represented employers in defending MEPPA withdrawal liability claims
- Successfully defended employer plan trustees from individual liability claims under ERISA arising from alleged breaches of fiduciary duties
- Successfully asserted due process claims barring governmental mid-term termination of contract
- Represented management trustees on Taft Hartley benefit and pension funds
- Represented management successfully in over 200 arbitrations

Mr. Frank is a member of the following organizations:

- American Health Lawyers Association
- Association of the Bar of the City of New York
- Federal Bar Council
- International Bar Association
- New York State Bar Association

Education

- University of Wisconsin (M.A., 1971)
 - *magna cum laude, Industrial Relations*
- University of Wisconsin Law School (J.D., 1971)
 - Order of the Coif

- University of Wisconsin (B.S., 1967)
 - Economics

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 First Circuit
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Tenth Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court, Eastern District of New York
- U.S. District Court, Eastern District of Wisconsin
- U.S. District Court, Northern District of New York
- U.S. District Court, Southern District of New York
- U.S. District Court, Western District of New York

Bar Admissions

- District of Columbia
- New York
- Wisconsin

Practice Areas

- Class Actions
- Employment Litigation
- Employment Training, Practices, and Procedures
- ERISA and Benefit Plan Litigation
- Labor Management Relations

Industries

- Health Care and Life Sciences Industry