

## John Houston Pope

Member of the Firm

**New York**

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**JOHN HOUSTON POPE** is a Member of the Firm in the Employee Benefits & Executive Compensation, Litigation, and Employment, Labor & Workforce Management practices in the New York office. His practice predominately involves the litigation of controversies, but he also counsels clients on lowering litigation risks and exposures.

Mr. Pope regularly represents clients before federal courts, state courts, and administrative agencies. He has first-chaired jury and bench trials and conducted arbitrations. Mr. Pope also has initiated actions on behalf of clients to preemptively manage controversies with former employees.

Mr. Pope:

- Represents management in all aspects of employment-related matters
- Represents plan sponsors and fiduciaries in the defense of claims brought under ERISA involving changes to plan benefit offerings, breach of fiduciary duty, and denial of benefits under pension and welfare benefit plans
- Litigates compensation issues, including the valuation of stock option awards, the entitlement to commission compensation under New York Labor Law, and the distinction between employees and independent contractors under wage and hour laws and benefit plans
- Litigates a wide range of media and First Amendment disputes, as well as commercial law cases

Mr. Pope's extensive experience in employment law litigation spans a broad spectrum of issues, including promotion, termination, and harassment claims based on race, national origin, religion, sex, age, and disability; retaliation claims; whistleblower claims; wrongful discharge suits; and other employment-related torts. His cases have included single plaintiff, collective, and class actions.

Mr. Pope's ERISA litigation experience ranges from single-plaintiff claims for benefits to class action challenges concerning the administration and design of pension plans, welfare benefit plans, and voluntary incentive departure plans. He aggressively pursues strategies that focus and confine discovery, thereby containing client costs and

obtaining early dispositive rulings. He also frequently advises clients on litigation-related risks involved in changes to retiree and other employee benefits.

Mr. Pope's experience in litigating entertainment, media, and First Amendment issues is diverse. He has defended suits involving copyright and trademark infringement, defamation, the right of access to public records, and a reporter's privilege not to reveal confidential sources. Mr. Pope also has litigated a variety of commercial cases, including accountant malpractice, securities fraud, and the refund of a multi-million dollar accumulated earnings credit.

Having argued more than a dozen appeals before both state and federal courts and written more than 25 appellate briefs, Mr. Pope is a seasoned appellate attorney. Many of his cases have involved noteworthy rulings and have resulted in published decisions, including:

#### *Employment Discrimination*

- *Lauture v. IBM*, 216 F.3d 258 (2d Cir. 2000) (employment discrimination; Section 1981)
- *Adams v. Lucent Technologies Inc.*, 2007 WL 14593 (S.D. Ohio 2007) (age discrimination case brought by nearly 400 plaintiffs), *aff'd*, 284 Fed. Appx. 296 (6th Cir. 2008)
- *Kodengada v. IBM*, 88 F. Supp. 2d 236 (S.D.N.Y. 2000) (Title VII hostile work environment and retaliation), *aff'd*, 242 F.3d 366 (2d Cir. 2000)
- *Browne v. CNN America, Inc.*, 1999 WL 1084236 (S.D.N.Y. 1999) (ADEA, ADA, NYS & NYC human rights laws), *aff'd*, 229 F.3d 1135 (2d Cir. 2000)

#### *ERISA*

- *Chastain v. AT&T Corp.*, 558 F.3d 1177 (10th Cir. 2009), *aff'g*, 2007 WL 3357516 (W.D. Okla. 2007) (absolving transferor company of liabilities for benefit changes made by spin-off corporation)
- *In re Lucent Technologies Death Benefit ERISA Litig.*, 541 F.3d 250 (3d Cir. 2008), *aff'g* 2006 WL 3437586 (D.N.J. 2006) (successful defense of decision to eliminate employee welfare benefit that represented \$460 million liability to company)
- *Bishop v. Lucent Technologies Inc.*, 520 F.3d 516 (6th Cir. 2008), *aff'g* 2007 WL 838945 (S.D. Ohio 2007) (breach of fiduciary duty litigation)
- *Waksman v. IBM Separation Allowance Plan*, 138 Fed. Appx. 370 (2d Cir. 2005) (Section 502 benefits denial)
- *Sandberg v. KPMG Peat Marwick LLP*, 111 F.3d 331 (2d Cir. 1997) (Section 510)
- *Green v. IBM*, 2001 WL 736811 (S.D.N.Y. 2001), *aff'd*, 32 Fed. Appx. 7 (2d Cir. 2002) (Section 510)
- *Wojciechowski v. Metropolitan Life Ins. Co.*, 75 F. Supp. 2d 256 (S.D.N.Y. 1999) (Section 502 benefits denial), *aff'd*, 242 F.3d 369, 1 Fed. Appx. 77 (2d Cir. 2001)

Mr. Pope's commitment to the provision of pro bono services includes his long-time representation of death-row inmate Tommy Zeigler, on whose behalf he has advocated since 1991. Mr. Pope appeared in a segment on A&E Investigative

Reports Tenth Anniversary Show titled *Death Penalty on Trial* in which he discussed the case (A&E Television Networks, aired October 2001).

Prior to joining Epstein Becker Green, Mr. Pope was a law clerk to Judge Howell W. Melton of the U.S. District Court for the Middle District of Florida and a partner in a New York City-based litigation boutique firm.

Mr. Pope has been named to the *New York Metro Super Lawyers* list (2015-2018) in the areas of Employee Benefits, Employment Litigation: Defense, and Appellate. He frequently speaks on employment-related topics.

### **Education**

- University of Iowa College of Law (J.D., 1987)
  - *with high distinction*
- University of Iowa (B.A., 1981)

### **Court Admissions**

- Supreme Court of the United States
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Tenth Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. District Court, District of North Dakota
- U.S. District Court, Eastern District of New York
- U.S. District Court, Middle District of Florida
- U.S. District Court, Northern District of Florida
- U.S. District Court, Northern District of New York
- U.S. District Court, Southern District of Florida
- U.S. District Court, Southern District of New York
- U.S. District Court, Western District of New York

### **Bar Admissions**

- Florida
- New York

### **Practice Areas**

- Appellate
- Class Actions
- Employee Benefits and Executive Compensation
- Employment Litigation
- ERISA and Benefit Plan Litigation
- First Amendment
- Intellectual Property Litigation
- Labor & Employment Litigation
- Trade Secrets & Employee Mobility
- Social Media and the Workplace

### **Industries**

- Technology, Media & Telecommunications

### **Memberships**

- American Bar Association
- New York City Bar Association