



## Daniel L. Messeloff

### Partner

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Daniel Messeloff works with companies ranging from multinational corporations to start-ups and small businesses to address, manage, and resolve their employment, labor, and other legal issues.

With more than 15 years of experience, Dan knows when to settle claims and when to aggressively defend clients in court. He approaches each matter with the goal of minimizing clients' potential legal liability and maximizing their overall business success. Whether drafting or revising corporate policies, leading employee training sessions, advising on compliance issues, or defending clients in trial, Dan works efficiently and effectively to resolve clients' legal issues.

An experienced litigator, Dan defends clients in disputes of all sizes arising under federal, state, and local laws prohibiting unlawful discrimination and harassment, as well as cases arising under the Employee Retirement Income Security Act of 1974 (ERISA), data privacy laws, and general commercial matters. He has litigated many multimillion-dollar employment lawsuits, including class- and collective-action claims and single-plaintiff discrimination cases. In leading the litigation of class action lawsuits, Dan handles all substantive and procedural aspects, including the investigation of potential claims, responding to complaints, motion practice, discovery, and class certification issues. He also represents clients in labor arbitrations, NLRB proceedings, and before federal courts.

A sought-after speaker, Dan has presented on the topics of employment law and wage and hour issues to hundreds of corporate professionals. He has been published in major publications, including *The New York Times*, *The Chicago Tribune*, *USA Today*, *The Washington Post*, *The Columbus Dispatch*, and *The New York Law Journal*. He has also edited and contributed to both the *Employment Class and Collective Actions* blog and the *Class Action Trends Report* newsletter.

While in law school, Dan clerked for Judge Michael Mukasey, Chief Judge of the United States District Court for the Southern District of New York, who later served as Attorney General of the United States.

Before law school, Dan was a sportswriter for the National Baseball Hall of Fame, *ESPN Magazine*, Bloomberg News, and other publications.

In his spare time, Dan enjoys reading, baseball, and spending time with his family.

## Education

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- Fordham University School of Law (J.D., 2001)
- Washington University in St. Louis (B.A., 1996)

## State Admissions

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- Ohio, 2005
- New York, 2003

## Federal Admissions

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- Supreme Court of the United States
- United States Court of Appeals, Sixth Circuit
- United States District Court, Eastern District of New York
- United States District Court, Southern District of New York
- United States District Court, Northern District of Ohio
- United States District Court, Southern District of Ohio

## Certifications

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- OSBA Certified Specialist in Labor and Employment Law
- Certified Information Privacy Professional/US (CIPP/US)

## Service Areas

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- Labor & Employment
- Business Litigation
- Class Action Litigation
- Employee Benefits & Executive Compensation
- ERISA Litigation
- ESOP
- Financial Services Litigation
- Insurance
- Privacy & Data Security

### **Industries Represented**

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- Franchisees
- Hospitals
- Restaurants
- Retail Stores

### **Experience**

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- Served as first chair in several nationwide class- and collective-action lawsuits alleging violations of the Fair Credit Reporting Act, the Fair Labor Standards Act, ERISA, state-law claims, and other laws
- Represented foodservice client in defense of collective action, resulting in decertification of class and restructuring of client's operations to ensure compliance with law and minimize risk of future legal claims
- Represented food production client in defense of collective action, resulting in favorable settlement of claim and reassessment of client's reporting structure in order to minimize risk of future liability
- Represented retail client in defense of wage and hour collective action, resulting in plaintiffs' voluntary dismissal of claim with no payment by client
- Represented defendant in an action seeking modification of retiree health benefits
- Represented defendants in cases alleging denial of benefits under ERISA
- Represented defendants in actions alleging breach of fiduciary duty under ERISA and related claims

## Publications & Events

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### RECENT SPEAKING ENGAGEMENTS

- “The Most Common Payroll Mistakes and How Legal Guidance Can Fix Them, American Payroll Association, Fort Worth, Texas Chapter (July 2021)
- “[Why Contractors as Music Teachers Can Hurt Your Business](#),” Music Lessons and Marketing Podcast with Dave Simon (June 2021)
- “Calculating Employees’ Overtime Compensation the Right Way, Beyond Just Time-and-a-Half,” 27th Annual Wage & Hour Seminar, American Payroll Association, Greater Cincinnati & Northern Kentucky Chapter (June 2021)
- “My Time or Yours? The Changing Landscape of Compensable Time,” 2021 Northern Ohio Human Resources Conference, Cleveland SHRM (May 2021)
- “The Most Common Payroll Mistakes, and How Legal Guidance Can Fix Them,” American Payroll Association, Miami Valley Chapter (March 2021)
- “The Most Common Payroll Mistakes, and How Legal Guidance Can Fix Them,” American Payroll Association, Greater Cincinnati and Northern Kentucky Chapter (February 2021)
- “What to Do When Payroll Goes Wrong, and How Legal Guidance Can Help,” National Webinar, American Payroll Association (February 2021)
- “Living at Work: Practical Advice on Data Privacy for Your Business and Your Family,” Panelist, 2020 In-House Counsel Summit Webinar, Tucker Ellis LLP (December 2020)
- “What to Expect for Your Construction Business Post-COVID Lockdown,” Webinar, Construction Employers Association (June 2020)
- “My Time or Yours? The Changing Landscape of What Constitutes Employees’ Compensable Time,” Labor and Employment Conference, Cleveland Metropolitan Bar Association (May 2020)
- “Data Privacy Concerns: Best Practices in Cybersecurity and Data Privacy,” Northeast Ohio Chapter of the Association of Certified Fraud Examiners, Cleveland, Ohio (February 2020)
- “Bracing for the New Normal in Data Privacy: GDPR, CCPA, and Other Initiatives Impacting the Business World in 2020 and Beyond,” 2019 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (November 2019)
- “GDPR and International Compliance,” Cybersecurity & Privacy Protection Conference 2019, Cleveland, Ohio (May 2019)
- “Global Security Risk Management Update: Impact on Cyber, Intellectual Property, Personal and Corporate Physical Security,” Cleveland Metropolitan Bar Association, Cleveland, Ohio (May 2019)
- “Reframing Immigration Reform: Is It Legally Possible to Let the ‘Good People’ In and Keep the ‘Bad People’ Out?,” 2018 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (October 2018)
- “Avoiding Legal Liability,” The Information Security Summit, Cleveland, Ohio (October 2018)
- “The Impact of President Trump on Wage and Hour Claims and Other Hot Employment Law Issues,” Emerging Topics in Employment & Employee Benefits Law, Tucker Ellis LLP, Columbus, Ohio (April 2018)
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“Employment Issues That Keep You Up at Night,” Emerging Topics in Employment & Employee Benefits Law, Tucker Ellis LLP, Cleveland, Ohio (March 2018)

- “Corporate Representative Depositions and Proportionality – Avoiding Traps for the Unwary,” Cleveland Metropolitan Bar Association, Cleveland, Ohio (December 2017)
- “Human Slavery – Yes, Slavery – All Around Us: Human Trafficking in the Modern Workforce, How You May Be Legally Liable for It, and What You Can Do to Help Stop It,” 2017 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (October 2017)
- “The Future of Employment Law Under President Trump: Heaven, Hell, or Somewhere In Between?,” 17th Annual Labor & Employment Law Conference, Cleveland Metropolitan Bar Association (April 2017)
- “Dismissing the ‘Class’: Strategies for Avoiding, Preventing and Defending Class Action Lawsuits,” Ohio State Bar Association, Columbus, Ohio (November 2016)
- “Just Say No? Guns and Marijuana in the Workplace,” Cleveland Metropolitan Bar Association, Cleveland, Ohio (October 2016)
- “Managing the Upcoming Changes to the FLSA Exemption Regulations: What to Expect and How to Handle Your Employees Under the New Laws,” Ohio State Bar Association, Columbus, Ohio (June 2016)
- “American Labor & Employment Law,” Human Resource Professional Association of Canada, Toronto, Toronto, Canada (June 2016)
- “Joint Employer Liability,” Association of Corporate Counsel, Cleveland, Ohio (April 2016)
- “Top Human Resource Strategies to Reduce Potential Liability and Overview of Changes to DOL Regulations,” Cleveland Metropolitan Bar Association, Cleveland, Ohio (November 2015)
- “Recent Wage and Hour Developments,” 12th Annual Northern Ohio Labor & Employment Law Conference, Cleveland Metropolitan Bar Association, Cleveland, Ohio (May 2012)
- “Reducing the Potential for Discrimination and Harassment Liability,” National Business Institute, Cleveland, Ohio (October 2010)
- Six-Part Series of Seminars on Human Resources/Employment Law, Key Bank Corporate College, Cleveland, Ohio (Spring 2010)

## RECENT PUBLICATIONS

- [Lingua Negoti Blog Posts](#)
- “Payroll Data Privacy in the Time of Working From Home,” *PAYTECH*, American Payroll Association (May 2021)
- “Minimize Your Legal Risks to Maximize Your Workforce Management,” *PAYTECH*, American Payroll Association (January 2021)
- “INSIGHT: Steps for Companies Expanding Remote Workforce Due to Coronavirus,” *Bloomberg Law* (March 2020)
- “European Regulatory Actions Pressure U.S. Companies and Regulators,” *Bloomberg Law* (November 2019)
- “GDPR Focus: How the European Union’s New Cybersecurity Measure Will Impact Your American Manufacturing Business,” *Manufacturing Today* (May 2018)
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- “Countdown to the GDPR,” *Manufacturing Business Technology* (March 2018)
- “Countdown to the GDPR: What You Need to Know About the Impact of the European Union’s New Cybersecurity Measures on Your American Business,” Tucker Ellis White Paper (March 2018)
- “Why Sexual Harassment Victims Face Class Action Hurdles,” *Law360* (March 2018)
- *Employment Class and Collective Action Update*, Past Editor
- *Class Action Trends Report*, Past Editor
- “Agents Convicted of Smuggling Cuban Baseball Players,” *Collegiate & Professional Sports Law Blog* (March 2017)
- “Think A Class Is Certified? Not So Fast ... Second Circuit Affirms Decertification of Class Even After Jury Verdict, Overturning Jury Award,” *Employment Class and Collective Action Update* (September 2016)
- “Ninth Circuit Affirms Dismissal of Wage-Hour Class Action Where Employees Could Edit Their Own Time Entries,” *National Law Review* (May 2016)
- “U.S. Supreme Court Finds Representative Statistically Valid Evidence Supports Wage-Hour Class Certification,” *National Law Review* (March 2016)
- “Sixth Circuit Makes It Harder for Employers to Defeat ‘Bald Assertions’ of Wage Violations in Collective Actions,” *National Law Review* (September 2015)
- “How Has Wal-Mart, Inc. v. Dukes Impacted Ohio Class Actions?,” *Ohio Association of Civil Trial Attorneys Quarterly Review* (Fall/Winter 2013)
- “Inattention to Payroll Opens Firms to Claims of Fair Labor Act Violations,” *Crain’s Cleveland Business* (December 2009)
- “Argument for the ‘Opposition’: The Supreme Court Clarifies Employees’ ‘Opposition’ as Protected Activity,” *Cleveland Metropolitan Bar Association Journal* (May 2009)

## **MEDIA QUOTES**

- “When and How Employers Should Respond to Employee Activism,” *SHRM* (April 2021)
- “HR’s Emerging Role in Required Human Capital Reporting,” *SHRM* (April 2021)
- “Legal Tech’s Predictions for Privacy in 2020,” *Legaltech News* (January 2020)
- “6 Employee Activism Lessons HR Needs Today,” *TechTarget* (November 2019)
- “SEC May Soon Require Human Capital Reporting,” *SHRM* (October 2019)
- “CCPA Compliance Begins with Data Inventory Assessment,” *TechTarget* (December 2018)
- “5 Tips to Help Employers Stave Off Workplace Violence,” *Law360* (June 2017)

## **Honors**

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- The International Association of Privacy Professionals, Certified Information Privacy Professional
- Martindale-Hubbell® Distinguished® Peer Rating
- Ohio Super Lawyers® (2017-2021)
- Ohio Super Lawyers Rising Stars® (2010-2014)
- The Best Lawyers in America® (2016-2022)

### **In the Community**

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- Cleveland Metropolitan Bar Association
  - » Board Member
  - » Litigation Section, Chair
  - » Leadership Academy, Established Leader Cohort Member (2017-2018)
  - » Thought Leadership Committee, Member
  - » Section and Committee Oversight Committee, Member
  - » 2017 Litigation Institute, “Courtroom 2030: An Interactive Look at the Future of Litigation,” Chair
  - » 2017 “De-Stress-Fest” (stress and anxiety relief conference), Chair
  - » Labor & Employment Law Section, Past Chair
- Ohio State Bar Association
- American Bar Association
  - » National Institute on Class Actions, Planning Committee
- Federal Bar Association
  - » Northeast Ohio Chapter, Board Member
- American Payroll Association, Cleveland Chapter
  - » Board Member
  - » Government Liaison
  - » Strategic Payroll Leadership Task Force, Best Practices Subcommittee
- Sports Lawyers Association, Member
- International Association of Privacy Professionals, Cleveland Chapter, Chair (2017-present)
- Beachwood Chamber of Commerce, Board Member
- United Way, Capacity Building Committee, Past Member
- Lakeland Community College, Past Adjunct Instructor in Legal Issues