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IRA M. SAXE

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PRACTICES

- Labor & Employment
- Health Care Labor & Employment
- Litigation & Trial

Ira Saxe, a partner in the New York office, has substantial experience representing management in federal and state court litigation, in both class action and single plaintiff matters and administrative agency proceedings, involving the Fair Labor Standards Act, Executive Order 11246, the ADA, Title VII, the ADEA, the OSH Act, the STAA, ERISA and the Labor Management Relations Act, as well as other federal, state and local wage and hour, discrimination, breach of contract, wrongful discharge, labor and workplace tort claims. His representative litigation engagements include the following:

- Denial of two California state-wide class certification motions, covering thousands of hourly employees, one seeking compensation for time spent at the workplace prior to their scheduled start time and the other challenging protective vest practices;
- Summary judgment in California State Court on claims of wrongful termination in violation of public policy, breach of implied contract, defamation and unfair business practices;
- Summary judgment in the U.S. District Court for the Southern District of Florida defeating Fair Labor Standards Act collective action overtime compensation claims, covering mixed fleet drivers, based on the federal Motor Carrier Act exemption;
- Reversal by the U.S. Court of Appeals for the District of Columbia of a decision by the NLRB that the client violated its duty to bargain in good faith by unilaterally imposing, after impasse, a work assignment provision under the Management Rights provision of its final offer;
- Summary judgment in the U.S. District Court for the Southern District of New York defeating race discrimination and retaliation claims; and
- Voluntary dismissal with prejudice, without any payment, following threatened sanctions motion, of a New Jersey Superior Court action alleging race and national origin discrimination, defamation, negligent hiring, training and retention, malicious prosecution and intentional infliction of emotional distress.

Mr. Saxe counsels employers in connection with a broad array of employee relations issues, including wage and hour, affirmative action and equal employment opportunity matters, advises management on complex issues arising in employment actions, including but not limited to individual or group terminations from employment, and prepares and reviews affirmative action programs, personnel policies, employee handbooks, and other employment-related materials. For example, Mr. Saxe's wage and hour practice includes advice and counsel to management on complex issues of classification of workers as employees or independent contractors, overtime exemptions, including but not limited to the federal Motor Carrier Act exemption, compensation practices regarding mobile workforces and the tip credit. His affirmative action practice runs the gamut from advice and counsel on coverage of governmental mandates and the development and implementation of any required AAPs and related recordkeeping systems to representation in connection with OFCCP compliance evaluations and complaint investigations.

Mr. Saxe worked as a Field Examiner Intern at the National Labor Relations Board, where he investigated unfair labor practice charges and processed representation petitions. Mr. Saxe later worked as a Compliance Specialist, Senior Compliance Specialist and Acting Deputy Assistant Director with the City of New York, where he conducted and supervised compliance reviews of contractors' compliance with applicable equal employment opportunity and affirmative action requirements and negotiated employment agreements in accordance therewith.

Mr. Saxe received his B.A. from the State University of New York at Albany, his Master of Industrial and Labor Relations from Cornell University's School of Industrial and Labor Relations, and his J.D. from the Fordham University School of Law, where he served as a member and Associate Editor of the Fordham Law Review. Mr. Saxe is a member of the American Bar Association, the New York State Bar Association, and the New York City Bar Association. He is admitted to the New York State Bar, and is admitted to practice before the United States Supreme Court, the United States Court of Appeals for the First, Second and Fourth Circuits and the United States District Courts for the Southern, Eastern and Western Districts of New York.

Admissions/Affiliations

Admitted to practice: New York, U.S. Supreme Court, U.S. Court of Appeals for the First, Second and Fourth Circuits, U.S. District Courts for the Southern, Eastern and Western Districts of New York. Member of the American Bar Association, the New York State Bar Association and the New York City Bar Association.

Education

- Fordham University School of Law, J.D.
- Cornell University, M.I.L.R.
- University at Albany, State University of New York, B.A.

Speaking Engagements

- "Fasten your seatbelts: A Review of Key OFCCP Initiatives and Enforcement Priorities as Take-Off Approaches," Crowell & Moring Webinar (October 6, 2011). Presenters: Cathy Kunz, Kris Meade, Ira Saxe, Jonathan Moskowitz, Rebecca Springer, and Jane Foster.

Publications

- "Revisit Independent Contractor Classifications," *Society for Human Resource Management's Legal Report* (October – November 2007). Co-Authors: Kris D. Meade, Jeffrey Pagano, Ira M. Saxe and Jonathan A. Moskowitz.

Alerts & Newsletters

- "New York City Employers Beware – New Law Prohibiting Unemployment Discrimination to Take Effect in June," *Labor & Employment Law Alert - US* (April 2, 2013). Contacts: Jeffrey W. Pagano, James E. Kellett, Ira M. Saxe, Jonathan A. Moskowitz.
- "Third Circuit Upholds Reduced Pleading Requirements for SOX Whistleblowers," *Labor & Employment Law Alert - US* (March 26, 2013). Contacts: Rebecca L. Springer, Christopher Calsyn, Jeffrey W. Pagano, Ira M. Saxe, Mark A. Romeo, S. Shane Sagheb.
- "New OFCCP Compensation "Guidance" Offers Little to Guide Contractors," *Labor & Employment Law Alert - US* (March 11, 2013). Contacts: Kris D. Meade, Rebecca L. Springer, Ira M. Saxe, Jonathan A. Moskowitz.
- "Lead Plaintiff's Failure to Report Alleged Unpaid Work Time Under The Employer's Reporting Policies Dooms FLSA Collective Action," *Labor & Employment Law Alert - US* (November 20, 2012). Contacts: Kris D. Meade, Thomas P. Gies, Andrew W. Bagley, Jeffrey W. Pagano, Ira M. Saxe, Jonathan A. Moskowitz, Mark A. Romeo, S. Shane Sagheb.
- "Participants in TRICARE Program Celebrate the Administrative Review Board's Florida Hospital Decision – Should Other Companies Care?," *Labor & Employment Law Alert - US* (November 12, 2012). Contacts: Kris D. Meade, Rebecca L. Springer, Jeffrey W. Pagano, Ira M. Saxe, Jonathan A. Moskowitz, Mark A. Romeo, S. Shane Sagheb.
- "California Appellate Court Approves (Finally) of Neutral Time Rounding," *Labor & Employment Law Alert - US* (November 7, 2012). Contacts: Mark A. Romeo, S. Shane Sagheb, Thomas P. Gies, Andrew W. Bagley, Jeffrey W. Pagano, Ira M. Saxe.
- "California High Court Rejects Fee Request For Rest Break Claims," *Labor & Employment Law Alert - US* (May 2, 2012). Contacts: Mark A. Romeo, S. Shane Sagheb, Kris D. Meade, Thomas P. Gies, Andrew W. Bagley, Jeffrey W. Pagano, Ira M. Saxe.
- "Department of Labor Proposes FMLA Rule on Leave for Caregivers to Servicemembers and Airline Flight Crew Employees," *Labor & Employment Law Alert - US* (February 14, 2012). Contacts: James E. Kellett, Ira M. Saxe, Jared Levine, Thomas P. Gies, Mark A. Romeo.
- "FMLA Protections from Interference and Retaliation Extended to Pre-Eligible Employees," *Labor & Employment Law Alert - US* (January 25, 2012). Contacts: Kris D. Meade, Christopher Calsyn, Jeffrey W. Pagano, James E. Kellett, Ira M. Saxe, Mark A. Romeo.

- "New DOT Regulations Require Commercial Truckers to Hit the "Breaks"," *Labor & Employment Law Alert - US* (January 5, 2012). Contacts: Trina Fairley-Barlow, Rebecca L. Springer, Jeffrey W. Pagano, Ira M. Saxe, Mark A. Romeo.
- ""Sea Change" in OFCCP Disability Regulations Would Mean Increased Turbulence for Contractors," *Labor & Employment Law Alert - US* (December 14, 2011). Contacts: Kris D. Meade, Ira M. Saxe, Rebecca L. Springer, Jonathan A. Moskowitz, Mark A. Romeo.
- "Federal Court Upholds OFCCP Demand For Data," *Labor & Employment Law Alert - US* (November 21, 2011). Contacts: Kris D. Meade, Rebecca L. Springer, Ira M. Saxe, Jonathan A. Moskowitz, Mark A. Romeo.
- "OSHA Revises Its Sarbanes-Oxley Whistleblower Rules Impacting Public Companies and Their Affiliates and Subsidiaries," *Labor & Employment Law Alert - US* (November 9, 2011). Contacts: Mark A. Romeo, Samuel P. Nielson, Kris D. Meade, Thomas P. Gies, Christopher Calsyn, Jeffrey W. Pagano, Ira M. Saxe.
- "The NLRB Overrules Prior Decisions to Reinstate "Recognition Bar" Protection for Unions Voluntarily Recognized and "Successor Bar" Protection for Incumbent Unions," *Labor & Employment Law Alert - US* (September 8, 2011). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Thomas P. Gies, Glenn D. Grant, Mark A. Romeo.
- "OFCCP Seeks Input on Development of New Compensation Reporting Tool," *Labor & Employment Law Alert - US* (August 16, 2011). Contacts: Kris D. Meade, Ira M. Saxe, Rebecca L. Springer, Mark A. Romeo.
- "OFCCP Drumbeat Continues: Agency Announces New FAAP Procedures," *Labor & Employment Law Alert - US* (July 1, 2011). Contacts: Rebecca L. Springer, Kris D. Meade, Jeffrey W. Pagano, Ira M. Saxe, Jonathan A. Moskowitz, Mark A. Romeo, Wendy A. Sugg.
- "Fifth Circuit Applies Recent Supreme Court Decision to Revive Son's Title VII Retaliation Claim Based on Father's Protected Activity," *Labor & Employment Law Alert - US* (May 31, 2011). Contacts: Thomas P. Gies, Glenn D. Grant, Jeffrey W. Pagano, Ira M. Saxe, Mark A. Romeo.
- "NLRB Sues Arizona in Federal Court over Constitutional Amendment Requiring Secret Ballot Elections for Union Representation," *Labor & Employment Law Alert - US* (May 18, 2011). Contacts: Kris D. Meade, Thomas P. Gies, Glenn D. Grant, Jeffrey W. Pagano, Ira M. Saxe, Mark A. Romeo.
- "You Wanna Sue Your Employer for Overtime? The Labor Department Has an App for That!," *Labor & Employment Law Alert - US* (May 17, 2011). Contacts: Thomas P. Gies, Ira M. Saxe, Mark A. Romeo.
- "Philadelphia Is Latest Jurisdiction to "Ban the Box" in Hiring Processes," *Labor & Employment Law Alert - US* (May 16, 2011). Contacts: Kris D. Meade, Glenn D. Grant, Jeffrey W. Pagano, Ira M. Saxe, Mark A. Romeo.
- "New York State Department of Labor Issues Guidance and Sample Templates in Connection With the New York Wage Theft Prevention Act," *Labor & Employment Law Alert - US* (April 12, 2011). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Jonathan A. Moskowitz, Kris D. Meade, Thomas P. Gies, Mark A. Romeo.
- "EEOC Issues Final Regulations on ADA Amendments Act of 2008," *Labor & Employment Law Alert - US* (April 7, 2011). Contacts: Jeffrey W. Pagano, James E. Kellett, Ira M. Saxe, Kris D. Meade, Thomas P. Gies, Mark A. Romeo.
- "New York Wage Theft Prevention Act Takes Effect on April 9, 2011," *Labor & Employment Law Alert - US* (April 4, 2011). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Thomas P. Gies, Kris D. Meade, Mark A. Romeo.
- "Oral Complaints are Sufficient to Support an FLSA Retaliation Claim," *Labor & Employment Law Alert - US* (March 28, 2011). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Thomas P. Gies, Kris D. Meade, Mark A. Romeo.

- "NLRB Flexes Its Muscles by Opposing State Constitutional Amendments Requiring the Use of Secret Ballot Elections for Union Representation Purposes and Limiting Deferral to Arbitration," *Labor & Employment Law Alert - US* (January 26, 2011). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Thomas P. Gies, Kris D. Meade, Mark A. Romeo.
- "New York State Hospitality Industry Wage Order Increases the Wages to Be Paid to Tipped Employees and Authorizes Tip Pooling and Tip Sharing," *Labor & Employment Law Alert - US* (December 23, 2010). Contacts: Jeffrey W. Pagano, Ira M. Saxe.
- "Proposed OSHA Noise Regulations Reverse Long-Standing Interpretations And Increase Potential Costs To Employers," *Labor & Employment Law Alert - US* (November 24, 2010). Contacts: Kevin C. Mayer, Clifford J. Zatz, Jeffrey W. Pagano, Ira M. Saxe.
- "Interim Rule Requires Federal Contractors to Report Executive Compensation and First-Tier Subcontract Awards," *Labor & Employment Law Alert - US* (July 12, 2010). Contacts: Kris D. Meade, Rebecca L. Springer, Peter Eyre, Jeffrey W. Pagano, Ira M. Saxe.
- "New Labor-Rights Poster Requirement for Federal Contractors," *Labor & Employment Law Alert - US* (May 24, 2010). Contacts: Rebecca L. Springer, Ira M. Saxe.
- "New York State Department of Labor Issues Forms Required When Giving Notice to New Employees Concerning Compensation," *Labor & Employment Law Alert - US* (December 17, 2009). Contacts: James E. Kellett, Ira M. Saxe.
- "New York Employers Must Comply With New Notice Requirements," *Labor & Employment Law Alert - US* (October 27, 2009). Contacts: Ira M. Saxe, Glenn D. Grant.
- "DOL Issues Proposed Rule Implementing Executive Order 13496 - Notice of NLRA Rights ," *Labor & Employment Law Alert - US* (August 10, 2009). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Kris D. Meade, Kathleen Clair.
- "Obama Administration to Begin E-Verify Enforcement For Certain Federal Contractors on September 8, 2009," *Labor & Employment Law Alert - US* (July 20, 2009). Contacts: Kris D. Meade, Ira M. Saxe.
- "Hospitals Contracting With HMO to Provide Medical Services to Federal Employees Held to be "Subcontractors" Even Where Subcontract Fails To Include EEO And Affirmative Action Provisions," *Health Law 'In The News'* (June 17, 2009). Contacts: Kris D. Meade, Arthur N. Lerner, Ira M. Saxe.
- "California Supreme Court Leaves Intact Broad Prohibitions On Enforceability Of Non-compete Agreements," *Trade Secrets Alert* (August 11, 2008). Contacts: Mark A. Romeo, James E. Kellett, Ira M. Saxe.
- "California Supreme Court Limits Liability of Individuals for Retaliation Under FEHA," *Labor & Employment Law Alert - US* (March 11, 2008). Contacts: Mark A. Romeo, Ira M. Saxe.
- "Crowell & Moring Establishes that an Employer May Unilaterally Exercise Management Rights Implemented after Bargaining Impasse," *Labor & Employment Law Alert - US* (February 7, 2008). Contacts: Jeffrey W. Pagano, Ira M. Saxe, Glenn D. Grant.
- "Commissioned Salespersons in New York State Must, Effective October 16, 2007, Be Paid Under Written Agreements," *Labor & Employment Law Alert - US* (October 12, 2007). Contacts: Jeffrey W. Pagano, James E. Kellett, Ira M. Saxe, Thomas P. Gies.

In the News

Crowell & Moring Establishes that an Employer May Unilaterally Exercise Management Rights Implemented after Bargaining Impass

January 31, 2008 — BNA's Daily Labor Report, No. 20, ISSN 1522-5968

A Crowell & Moring team led by Labor & Employment co-chair Jeffrey W. Pagano, with assistance from Herbert Meyer, Glenn Grant and Ira Saxe, successfully argued before the Court of Appeals for the D.C. Circuit ("DCCA") on behalf of Mail Contractors of America ("MCA"), and obtained reversal of a decision of the National Labor Relations Board ("NLRB") that found that MCA had unlawfully refused to bargain regarding a unilateral change of a driver relay point. The right of MCA, the largest U.S. Postal Service depot to depot mail carrier, to unilaterally change the relay point was contained in the Management Rights provision of MCA's final offer, implemented after impasse. The DCCA squarely rejected the NLRB's position that exercise of that right violated the National Labor Relations Act. The Court's Opinion is a landmark decision, and was featured as the lead article in the January 31, 2008 edition of the BNA Daily Labor Report, as it ensures an employer's ability to operate its business without interference of a union after implementation of a final offer.

Court Documents:

Mail Contractors of America v. NLRB, Nos. 06-1338, 06-1380, 2008 WL 220637 (D.C. Cir. Jan. 29, 2008)**Press Releases**

- New York State Bar Association Names 19 Crowell & Moring Attorneys As “Empire State Counsel” For Outstanding Pro Bono Efforts (Feb.03.2010)