



Gary R. Siniscalco

Senior Counsel
Employment Law

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Profile

Gary Siniscalco, Senior Counsel and Co-Chair of the EEO & OFFCP Compliance Group, has significant experience advising clients on complex employment litigation and advisory matters. He has particular experience in counseling and litigation defense for clients on equal opportunity, affirmative action (OFCCP) compliance, wrongful discharge, wage-and-hour matters and in working with companies on cross-border employment issues. Gary has handled numerous class actions, pattern and practice cases and government audits, in court and before the EEOC and Department of Labor. Gary brings a particularly unique perspective to clients on matters involving the EEOC, having served as regional counsel and senior trial attorney for the U.S. Equal Employment Opportunity Commission in San Francisco prior to joining Orrick.

Gary also has an extensive class actions practice, focusing on litigation, consent decree strategies and preventive advice. He has been designated as an expert or retained as special counsel in several federal court class actions throughout the United States.

Gary's counseling practice extends beyond the United States and includes assisting U.S. multinational companies in dealing with complex employee issues in foreign jurisdictions

Some of Gary's current representations include:

- several EEOC commissioner's charge and individual claims of race and national origin discrimination in use of criminal background checks against a major financial services company;
- a commissioner's charge alleging race discrimination in hiring and promotions; a multi-employee race promotion and pay case against a major retail store chain; and
- EEOC Equal Pay Act investigations; and OFCCP systemic pay and

Practices

- Employment Law & Litigation
- Discrimination, Harassment & Retaliation
- Trade Secrets Litigation
- Wage-and-Hour
- Cross-Border Employment Law Issues

Education

- J.D., Georgetown University Law Center, 1969
- B.A., Le Moyne College, 1965

Honors

- *The Recorder* California Labor & Employment Department of the Year (2013-2014)
- *The Recorder* California Litigation Department of the Year (2013-2014)

promotion audits.

Gary has written numerous articles on employment law. Most recently, he is Management Editor-in-Chief of a two-volume treatise--*Restrictive Covenants and Trade Secrets in Employment Law: An International Survey* (BNA, 2010). Gary is co-author of "The Pay Gap, the Class Ceiling, and Pay Bias: Moving Forward Fifty Years After the Equal Pay Act", *ABA Journal of Labor & Employment Law*, Vol 29, November 3 (Spring 2014), and "The Law of Employment Discrimination from 1985-2010," *ABA Journal of Labor & Employment Law*, Vol. 25, No. 3 (Spring 2010).

Gary is widely recognized as one the top management employment lawyers in the United States by every major ranking organization, including *Chambers USA*, the *National Law Journal*, Best of the Best USA (*Euromoney*), and *Who's Who Legal*. Among management employment lawyers in the United States and Europe, Gary is ranked in the top 10 of *Who's Who* international management labor and employment lawyers and is described as "absolutely superb."

Gary also serves regularly on the NYU faculty for training federal judges on employment law, the OFCCP Institute, PLI International Employment Law and ABA Labor and Employment Law Section programs.

Select Publications

- "Swinging for the Fences: Minor Leaguers Continue Suit Alleging They Were Paid Peanuts By The MLB," Orrick's Employment Law & Litigation Blog, June 9, 2015.
- "Reporting for Duty:' Employers May Face Extended Obligations to Reemploy Veterans with Post-Traumatic Stress Disorder under USERRA," Orrick's Employment Law & Litigation Blog, March 3, 2015.
- Co-Author, "EEOC v. Abercrombie: Mere suspicion insufficient to give rise to claim," *Daily Journal*, February 25, 2015.
- "U.S. Department of Labor Advances Regulatory Agenda with Final Rule Barring Federal Contractors from Discriminating against LGBT Workers," Orrick's Employment Law & Litigation Blog, December 10, 2014.
- "An Attorney is an Attorney is an Attorney? Not So Fast Says Second Circuit, Shutting Down EEOC Equal Pay Act Claim," Orrick's Employment Law & Litigation Blog, October 2, 2014.
- "At Long Last, OFCCP Announces OMB Approval of a New Scheduling Letter and Itemized Listing," Orrick's Employment Law & Litigation Blog, October 1, 2014.

- *The International Who's Who of Management, Labour & Employment Lawyers* (2013-14)
- *Who's Who of Management Labour & Employment Lawyers Top Ten International* (2009-14)
- *Chambers USA Band 2, Labor & Employment* (2011-14)
- *National Law Journal Leading Employment Lawyers*
- *Chambers USA Leading Employment Lawyer*, "noted for ability both to litigate and to provide counsel on a variety of issues." and "wonderful and highly capable."
- College of Labor & Employment Lawyers, Fellow since 1997

Memberships

- Editorial Board, *ABA Journal of Law & Employment Law*
- American Bar Association Labor and Employment Law Section, Member and Past Management Co-chair EEO Committee (1996-1998); and Past Management Co-chair International Labor and Employment Law Committee (2006-2010).
- American Employment



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- "Obama Executive Order Places New Burdens and Restrictions on Federal Contractors," Orrick's Employment Law & Litigation Blog, August 5, 2014.
 - Co-author, "The Pay Gap, the Glass Ceiling, and Pay Bias: Moving Forward Fifty Years After the Equal Pay Act," *The American Bar Association Labor and Employment Law Journal*, Volume 29, Issue 3, Spring 2014.
 - "Freedom of Watercooler Speech? NLRB Invalidates Employer's No-Gossip Policy," Orrick's Employment Law & Litigation Blog, December 31, 2013.
 - "Arbitration Wars: The California Supreme Court Strikes Back in *Sonic II*," Orrick's Employment Law & Litigation Blog, October 29, 2013.
 - "You Can't Get Paid for Sleeping on the Job," Orrick's Employment Law & Litigation Blog, July 23, 2013.
 - "The EEOC Aggressively Pursues Criminal Background Check Policies," Orrick's Employment Law & Litigation Blog, June 14, 2013
 - "Prisoner 24601 May Report for Duty, Says the EEOC," Orrick's Employment Law & Litigation Blog, April 17, 2013.
 - "Put up your Dukes! Supreme Court Clarifies that Damages Must be Capable of Class Wide Resolution in Rule 23(b)(3) Class Actions," Orrick's Employment Law & Litigation Blog, April 3, 2013.
 - Orrick's Employment Law and Litigation Global Newsletter - Winter 2013.
 - "EEOC's SEP May Mean Narrower, More Aggressive Oversight," *Law360*, January 18, 2013
 - "EEOC Releases its Strategic Enforcement Plan," Orrick's Employment Law & Litigation Blog, January 9, 2013.
 - "California Court of Appeal Overturns \$1.3 Million in Damages and Attorneys' Fees Against Lucasfilm for Failure to Give Instruction on Business Judgment," Orrick's Employment Law & Litigation Blog, December 19, 2012.
 - Orrick's Employment Law & Litigation Global Newsletter - Fall 2012.
 - "EEOC Delays Release of Strategic Enforcement Plan, Suggesting Revisions to Draft Plan Likely," Orrick's Employment Law & Litigation Blog, October 2, 2012.
 - "Employer Response to Workplace Harassment - What is Enough?," Orrick's Employment Law & Litigation Blog, September 11, 2012.
 - "Department of Treasury Proposes Rule Aimed to Ensure Diversity in its Contractor Workforce," Orrick's Employment Law & Litigation Blog, August
- Law Council: Founding member and member of the board
 - College of Labor and Employment Lawyers: Fellow since 1997
 - National Employment Law Institute: Founding member and Advisory Board
 - ADR panel member for the Northern District of California
 - State Bar of California



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31, 2012.

- "Collection of Pay Data by Gender, Race and National Origin," Orrick's Employment Law & Litigation Blog, August 27, 2012.
- Orrick's Employment Law & Litigation Global Newsletter - Summer 2012.
- Co-Author, "Criminal Background Policy Checkup," SHRM HR Magazine (Legal Trends), July 2012.
- "Equal Pay is Down, But Not Out," Orrick's Employment Law & Litigation Blog, June 18, 2012.
- "Ninth Circuit Holds Statistical Evidence May Establish Prima Facie Claim of Disparate Treatment Without Accounting for Defendant's Legitimate, Non-Discriminatory Reasons for Adverse Action," Orrick's Employment Law & Litigation Blog, June 7, 2012.
- "Employer Requests for Social Media Passwords Under Scrutiny," Orrick's Employment Law & Litigation Blog, June 7, 2012.
- "EEOC Issues New Enforcement Guidance Regarding Criminal Background Check Policies," Orrick's Employment Law & Litigation Blog, April 30, 2012.
- "Credit Checks & Employment Discrimination—State Legislatures and the EEOC Take Action," Orrick's Employment Law & Litigation Blog, April 17, 2012.
- Co-Editor in Chief, "Restrictive Covenants and Trade Secrets in Employment Law: An International Survey" (BNA, 2010).
- Co-Author of "The Law of Employment Discrimination from 1985-2010," Journal of the ABA Labor & Employment Law Section. Vol. 25, No. 3 (Spring 2010).

Admitted In

- California