

## ATTORNEY BIOGRAPHY



### Robert L. Kilroy

Co-Managing Partner

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### Westborough Office:

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### Legal Administrative Assistant

Jessica K. Rubin

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### Education

JD, *magna cum laude*, Cornell Law School (1997); Editor-in-Chief, *Cornell Law Review*

BS, *high honors*, Worcester Polytechnic Institute (1984)

### Bar and Court Admissions

Massachusetts

U.S. District Court for Massachusetts

U.S. Court of Appeals for the First Circuit

U.S. Supreme Court

### Professional/Community Affiliations

Milford Regional Medical Center, Board of Trustees, past chair; Patient Care Assessment Committee, past chair

Milford Regional Healthcare Foundation, Board of Trustees, past chair

Milford Area Chamber of Commerce, Board of Directors, past chair

Massachusetts Hospital Association, Clinical Issues Advisory Council, past member

New Hope, Inc., Capital Campaign Committee Member

Leadership MetroWest Academy, graduate

Massachusetts Bar Association

Boston Bar Association

Worcester County Bar Association

### Practice Groups and Specialty Areas

Labor, Employment and Employee Benefits

Employment Litigation

Human Resource-Related Advice and Training

Labor Law

Health Law

Alternative Dispute Resolution

Bob is co-managing partner of the firm and a partner and former chair of the Labor, Employment and Employee Benefits Group, where he specializes in employment litigation in defense of corporations and their executives. Bob has extensive experience representing hospitals and physician groups. He routinely appears in federal and state courts throughout New England and beyond, as well as before the Massachusetts Commission Against Discrimination and the Equal Employment Opportunity Commission in defense of claims of discrimination, sexual harassment, wrongful termination, breach of contract, whistleblower and wage payment violations. Bob also has extensive experience in both defense and enforcement of non-compete agreements. In addition, he represents management for private-sector employers in grievance arbitrations filed by unions, with particular emphasis on the health care industry. Apart from his employment litigation practice, Bob advises clients on a broad range of employment and human resource-related issues.

Prior to joining Mirick O'Connell, Bob served 10 years active duty as an officer in the U.S. Marine Corps, where he was awarded four medals for leadership excellence. In addition, he has served as a special assistant district attorney, as an employment litigator for Testa, Hurwitz & Thibault, and as a litigation associate for Ropes & Gray in Boston.

Bob was included in the 2025 edition of *The Best Lawyers in America*® for Labor Law – Management and the 2024 edition of *The Best Lawyers in America*® for Employment Law- Management and Labor Law - Management. Bob has annually been named a Massachusetts “Super Lawyer” by *Boston* magazine and *Law & Politics* every year since 2011. He was also previously named a Massachusetts “Rising Star” for three consecutive years. In 2024, Bob was included in *Worcester Business Journal's* Power 100 list.

### Representative Matters

- Successfully represented a Hospital and physician leaders facing allegations of age, race, national origin, gender, and disability discrimination, which were asserted by a physician whose employment was terminated for substandard quality. All claims other than the age discrimination claim were dismissed at summary judgment. The age discrimination claim then proceeded to a jury trial in the U.S. District Court for the Central District of Massachusetts. At the conclusion of a two-week trial, the jury ruled in favor of the Hospital and its physician leader
- Successfully represented a Hospital facing allegations of breach of contract and wrongful termination of a formerly-employed physician. Case was immediately dismissed based on the doctrine of Health Care Quality Improvement Act immunity as applied to decisions of a self-governing medical staff
- Successfully represented a major healthcare industry client facing claims of race, color, national origin and disability discrimination, as well as retaliatory discharge, before the U.S. District Court for the District of Massachusetts. All claims were dismissed following a motion for summary judgment

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### Representative Matters (continued)

- Successfully represented a major healthcare industry client facing claims brought by a physician for breach of contract and breach of the covenant of good faith and fair dealing in Massachusetts Superior Court. All claims were dismissed following a motion for summary judgment
- Successfully represented a major healthcare industry client facing claims of disability discrimination, retaliation and constructive discharge before the Massachusetts Commission Against Discrimination. All claims were dismissed following seven days of public hearing
- Successfully defended a major healthcare institution facing claims of disability discrimination in U.S. District Court. Case was dismissed following a motion for summary judgment
- Enforced a non-competition agreement on behalf of an educational software company, resulting in the removal of a former executive from the competitor's workforce and the recoupment of attorneys' fees
- Successfully defended a sales executive facing a non-compete enforcement action by his former employer in Delaware Court of Chancery
- Represented a public company facing allegations of disability discrimination; the case was dismissed at the investigative stage of proceedings before the Massachusetts Commission Against Discrimination
- Successfully defended six executives facing 11 counts of discrimination, wrongful termination, and whistleblower retaliation in federal court; the case was won with an initial motion to dismiss prior to discovery
- Defended a municipality facing breach-of-contract claims in federal court following termination of an employee's contract for poor performance; the case was won prior to summary judgment based on admissions extracted at plaintiff's deposition, followed by a demand that the plaintiff voluntarily dismiss her case or face a motion for sanctions for having filed an action in bad faith
- Defended a major medical institution facing claims of breach of contract, intentional interference with contractual relations and defamation in federal court; the case was won with an initial motion to dismiss prior to discovery
- Represented a service provider company and its executives facing age discrimination claims; the case was won based on admissions extracted at the plaintiff's deposition, followed by a demand that the plaintiff voluntarily dismiss his case or face a claim for attorneys' fees based on having filed a frivolous lawsuit
- Successfully represented a major medical institution facing claims of pregnancy discrimination and gender bias at the Massachusetts Commission Against Discrimination
- Successfully represented a major medical institution in grievance arbitration involving a claim that supervisors were performing bargaining unit work
- Successfully represented a transportation company in grievance arbitration involving a claim that drivers were not properly compensated during meal breaks
- Defended a major medical institution in an action at the Massachusetts Commission Against Discrimination brought by a former physician claiming disability discrimination; the case was won based on admissions extracted at the plaintiff's deposition, followed by a demand that the plaintiff voluntarily dismiss his case or face a motion for sanctions for pursuing an action in bad faith
- Successfully represented in grievance arbitration a client who terminated an employee based on allegations of sexual misconduct in the workplace
- Successfully represented a major medical institution in grievance arbitration involving the transfer of an employee based on the hospital's belief that he was unable to safely perform certain job duties
- Successfully defended a financial services company facing allegations of breach of employment contract following the termination of an employee for inappropriate behavior in the workplace
- Defended a public entity facing breach-of-contract claims; the court granted our client summary judgment on all claims
- Successfully defended a public entity facing 11 counts of discrimination, wrongful termination and whistleblower retaliation in federal court; the court granted our client summary judgment on all claims

### Publications/Presentations

- [“EEOC Issues Fact Sheet Identifying Potential Ways “Wearables” in the Workplace Can Implicate Federal Anti-Discrimination Laws,”](#) Mirick O’Connell Client Alert, December 27, 2024
- [“U.S. District Court Strikes Down Department of Labor’s Final Rule Increasing the Salary Thresholds for Salaried Exempt Executive, Administrative and Professional Employees,”](#) Mirick O’Connell Client Alert, November 25, 2024
- “Lessons Learned from the Trenches: Best Practices to Ensure Effective Performance Management and, when such practices fail, to Conduct Employment Terminations so as to Minimize Organizational Risk,” Mirick O’Connell Labor, Employment and Employee Benefits Annual Seminar (May 4, 2023)
- [“Private Employers Take Note: Overbroad Non-Disparagement & Confidentiality Restrictions in Severance Agreements Run Afoul of the National Labor Relations Act,”](#) Mirick O’Connell Client Alert, March 29, 2023
- “Every HR Professional’s Nightmare: Handling Difficult Leave and Accommodation Scenarios under the FMLA, PFMLA, ADA and in light of the COVID pandemic,” UKG (presenter) (April 7, 2022) held at Encore Boston

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### Publications/Presentations (continued)

- Quoted in “CMS’ vaccine rules lay out staff deadlines, how to handle hold-outs,” *Part B News*, February 7, 2022
- “Avoiding Traps for the Unwary,” Massachusetts Bar Association In-House Counsel Conference (panel moderator) (January 27, 2022)
- Quoted in “Covid Surge Puts Wrinkle in Some Employers’ Return-to-Office Plans,” *Boston Business Journal*, July 23, 2021
- Quoted in “Mind Legality of Firing MD for Embarrassing the Practice; Better to Go No-Cause,” *Part B News*, July 12, 2021
- [“Should Employers Mandate Vaccinations and Mandate Remote Workers to Return to Working on Site?”](#) Mirick O’Connell Employment Law Webinar (March 30, 2021)
- “The New (Not So) Normal,” Massachusetts Bar Association In-House Counsel Conference (panel moderator) (January 28, 2021)
- [“Federal Court in New York Strikes Down Parts of the Department of Labor’s Regulations Interpreting the Families First Coronavirus Response Act,”](#) Mirick O’Connell Client Alert, August 5, 2020
- [“Issues for Employers to Consider for Re-Entry into the Workplace During COVID-19,”](#) *On Air with Mirick O’Connell* legal podcast (May 18, 2020)
- [“Returning to Work: Considerations for Employers Resuming On-Site Operations During the COVID-19 Pandemic?”](#) Mirick O’Connell Client Alert, May 14, 2020
- “Key Issues to Consider When Bringing Employees Back to Work,” Milford Area Chamber of Commerce Q&A Session (May 13, 2020)
- [“Recommendations to Ensure Workplace Safety in Light of the COVID-19 Pandemic for Non-Healthcare Employers,”](#) Mirick O’Connell Client Alert, April 27, 2020
- [“COVID-19’s Impact on the Workplace: What’s the Difference between a Layoff and a Furlough?”](#) Mirick O’Connell Client Alert, April 22, 2020
- [“Families First Coronavirus Response Act, Emergency Family and Medical Leave Expansion Act, Emergency Paid Sick Leave Act, with Updates from the DOL’s Q&As and Regulations,”](#) Mirick O’Connell Webinar (April 6, 2020)
- [“Department of Homeland Security Relaxes Standards for Verifying Work Authorization,”](#) Mirick O’Connell Client Alert, March 24, 2020
- [“The Coronavirus and Its Impact on the Workplace: Part II,”](#) Mirick O’Connell Client Alert, March 18, 2020
- [“The Coronavirus and Its Impact on the Workplace,”](#) Mirick O’Connell Client Alert, March 11, 2020
- [“U.S. Department of Labor Issues Final Rule About How to Calculate ‘Rate of Pay’ Under Fair Labor Standards Act,”](#) Mirick O’Connell Client Alert, December 18, 2019
- [“Department of Family and Medical Leave Announces Extension of Time to Provide Notice to Employees,”](#) Mirick O’Connell Client Alert, May 2, 2019
- [“Commonwealth’s Department of Family and Medical Leave Has Published a Workplace Poster and Notice Forms for Employees and Independent Contractors,”](#) Mirick O’Connell Client Alert, April 30, 2019
- “Employment Law Update,” Massachusetts Bar Association 40<sup>th</sup> Annual Labor and Employment Spring Conference (April 2019)
- “Massachusetts’ Paid Family & Medical Leave Act,” Mirick O’Connell Labor, Employment and Employee Benefits Annual Seminar (April 2019)
- “The Rights of Transgendered Employees in the Workplace,” client seminar (March 2019)
- “Employment Law Developments,” 16<sup>th</sup> Annual In-House Counsel Conference (January 2019)
- “Addiction in the Workplace,” Worcester Business Journal Forum (June 2018)
- “Medical Marijuana, Reasonable Accommodation for Off-Site Use, and Employer Drug Testing: How Do Employers Comply with the Law and Still Maintain a Safe Workplace?,” Mirick O’Connell HR Roundtable (April 2018)
- “Massachusetts Employment Law Hot Topics for 2018,” Clark & Lavey Boot Camp IX (April 2018)
- “Responding to Difficult Sexual Harassment Allegations Involving High-Level Executives and He Said/She Said Scenarios,” Mirick O’Connell Labor, Employment and Employee Benefits Annual Seminar (March 2018)
- “Sexual Harassment Prevention Training – Supervisors & Managers (Seminar for Sexual Harassment and Disruptive Behavior),” client seminar (January 2018)
- “Managing Difficult Leaves of Absence Under the FMLA & ADA,” client seminar (December 2017)
- “Hot Topics in Employment Law,” Massachusetts Bar Association 15<sup>th</sup> Annual In-House Counsel Conference (November 2017)
- [“Employees May Now File Discrimination Complaints Online with EEOC,”](#) Mirick O’Connell Client Alert, November 7, 2017
- “Sexual Harassment Prevention Training,” client seminar (June 2017)
- “Pay Equity Act,” client seminar (April 2017)
- “Discussion of Key Legislative Changes,” Mirick O’Connell Labor, Employment and Employee Benefits Annual Seminar (April 2017)

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### Publications/Presentations (continued)

- Quoted in “Shift in Wage-And-Hour Enforcement May Not Be Radical,” Bloomberg BNA Daily Labor Report, January 17, 2017
- Quoted in “Recreational Weed May Be Legal, But You Can’t Smoke in Public and Could Still Be Fired,” *Boston Business Journal*, December 15, 2016
- “Hiring Individuals with Disabilities,” client seminar (June 2016)
- “Sex Harassment Prevention Training for Executives, Supervisors, Managers and Employees,” client seminar (April 2016)
- “Employment Laws of the HR Universe: An Update,” Clark & Lavey Benefits Solutions HR Boot Camp (April 2016)
- “Deflategate and the Tom Brady Saga: Lessons Learned for both the Unionized and Non-Unionized Employer,” Mirick O’Connell Labor, Employment and Employee Benefits Annual Seminar (April 2016)
- “Misclassifying Employees as Independent Contractors and Other Massachusetts Wage Act Concerns,” Massachusetts Bar Association 13<sup>th</sup> Annual In-House Counsel Conference, (November 2015)
- “Manager Training on Select HR Topics,” client seminar (September 2015)
- “Sex Harassment Prevention Training for Supervisors and Managers,” client seminars (February 2015, May 2015)
- “Sex Harassment Prevention Training for Supervisors and Managers,” Mirick O’Connell Labor, Employment and Employee Benefits Annual Seminar, (March 2014)
- “Advanced Topics for the HR Practitioner,” Mirick O’Connell Labor, Employment and Employee Benefits Seminar (April 2012)
- “Avoiding Legal Pitfalls When Managing FMLA and Disability-Related Leaves of Absence,” Mirick O’Connell Labor, Employment and Employee Benefits Seminar (March 2011)
- “Navigating the FMLA/ADA Intersection: You Want To Do What?,” client seminar (December 2010)
- “Navigating the Requirements of the Massachusetts Identity Theft Regulations: What Every Business Needs to Know to Comply with the March 1, 2010 Deadline,” North Central MA Chamber of Commerce (November 2009)
- “Navigating the Requirements of the Massachusetts Identity Theft Regulations: What Every Business Needs to Know to Comply with the March 1, 2010 Deadline,” Mirick O’Connell Seminar (September 2009)
- “Non-Compete Agreements Protecting Customer Goodwill and Confidential Information with Non-Competition Agreements: Are They Even Worth the Paper They’re Printed on?,” Avidia Bank (September 2009)
- “Hot Topics with HR Experts,” Mirick O’Connell 2009 Labor, Employment and Employee Benefits Seminar (panel moderator) (March 2009)
- “Workplace Health Issues and the Recent Amendments to the Americans with Disabilities Act: What Every Employer Should Know,” joint seminar presentation with AllOne Health (February 2009)
- “Addressing Two Recurring HR Nightmares: (1) Disciplining the Employee Who Is Setting You Up for a Lawsuit; and (2) Managing the Employee Who Poses a Threat in the Workplace, Whether to Himself or Others,” Mirick O’Connell 2007 Labor, Employment and Employee Benefits Seminar, (November 2007)
- “Advanced Topics under the Americans with Disabilities Act: Pre-employment Medical Inquiries and Reasonable Accommodations,” Mirick O’Connell Labor, Employment and Employee Benefits Seminar (November 2007)
- “Protecting Your Company from Liability for Breaches of Data Privacy or Invasion of Privacy,” Council on Education in Management (May 2007)
- “Handling Employment Terminations to Minimize Risk of Liability,” Human Resources Management Association of Central Massachusetts (March 2007)
- “Interviewing and Hiring Best Practices,” Executive Forum Breakfast Series sponsored by Mirick O’Connell (June 2006)
- “Non-Competition and Confidentiality Agreements: Are They Even Worth the Paper They’re Printed On?,” Human Resources Management Association of Central Massachusetts (April 2006)
- “Legal Issues When Dealing with the Mature Workforce,” Human Resources Roundtable of the Associated Industries of Massachusetts (April 2005)
- “Balancing an Employer’s Desire for Employee Background Information against Employee Privacy Rights,” *Pulse of Technology*, 2004 (with Adam P. Forman, Esq.)