



# Theresa A. Kelly

## Partner

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## Overview

Theresa Kelly represents employers in a wide variety of litigation matters, including class actions under wage and hour laws, ERISA and discrimination laws, as well as wrongful discharge suits, whistleblower actions, contract actions and arbitration of employment claims. She defends employers in federal and state courts, as well as before the U.S. Equal Employment Opportunity Commission (EEOC) and various state administrative agencies.

Theresa's practice also includes advising employers on a broad spectrum of employment matters, including hiring, termination, reductions in force, workplace investigations, employee leave and accommodation issues, employee handbooks and policies, and the negotiation and preparation of employment and separation agreements. She also designs and conducts training on many employment law topics, including discrimination and harassment awareness, performance management, interviewing and hiring, wage and hour compliance, social media, FMLA, diversity and disability/religious accommodations in the workplace.

Theresa has represented employers in the automotive, banking, finance, logistics, retail, pharmaceutical and travel industries, among others. She has also represented various non-profit organizations in New Jersey and New York.

Theresa serves as Day Pitney's Partner in Charge of Diversity and Inclusion and works closely with the firm's Executive Committee and other stakeholders on the planning and implementation of the firm's DEI strategies and initiatives. Theresa is also the chair of Day Pitney's Pro Bono Committee and works across all offices of the firm to further Day Pitney's commitment

## Experience

*No aspect of this advertisement has been approved by the highest court of any state. Prior results do not guarantee a similar outcome.*

Defended employers in litigation in federal and state courts under various discrimination laws, the FMLA, wage and hour laws, ERISA, whistleblower claims, and numerous other common law, contract and public policy claims

Negotiated successful settlements of discrimination, harassment, retaliation and wage and hour claims brought under state and federal law

## Practices & Industries

[Employment & Labor](#)

[Employment Contracts](#)

[Employment Counseling & Training](#)

[Employment Litigation](#)

[Environmental, Social & Governance](#)

[Litigation](#)

[Wage and Hour Compliance & Employee Compensation](#)

[Workplace Investigations](#)

Counseled employers on planning and implementation of reductions in force, including selection of employees for layoff, legal compliance, employee communications and separation and release agreements

Defeated class certification of ERISA claims on behalf of global diagnostics company in federal court and represented employers in various ERISA litigation matters

Regularly counseled employers on discipline and employment investigation matters, and conducted employment law training for clients nationally on various employment law issues, and one-on-one counseling for executives

Represented employers before the EEOC and various state anti-discrimination agencies to obtain dismissal of charges of discrimination, as well as before Departments of Labor at the federal and state level defending wage audits, investigations and employee complaints

## Education and Credentials

### Education

Boston College Law School, J.D., 1988

University of Wisconsin, Madison, B.S., 1985

### Admissions

State of New Jersey

U.S. Court of Appeals for the Third Circuit

U.S. District Court, District of New Jersey

### Affiliations

American Bar Association

Morris County Bar Association

New Jersey State Bar Association, Labor and Employment Law Section

## Recognition and Community

*No aspect of this advertisement has been approved by the highest court of any state. Prior results do not guarantee a similar outcome. [See Awards Methodology.](#)*

### Recognitions

Chosen for inclusion in the [Chambers USA Legal Directory](#) (Chambers & Partners) of recognized practitioners for Labor and Employment attorney in New Jersey, 2009-2022

Chosen for inclusion in [The Best Lawyers in America](#) (Woodward/White, Inc.), Employment Law - Management, 2013-2025, Labor Law - Management, 2014-2025, Litigation - Labor and Employment, 2013-2025

Selected to the list of New Jersey [Super Lawyers](#) (Thomson Reuters), Employment and Labor, Employment Litigation, 2010, 2012-2019, 2021-2024

AV Preeminent rated by [Martindale-Hubbell](#) (LexisNexis)

## Insights

Federal Contractors and Other Recipients of Federal Government Funds, Be Wary: DEI Initiatives May Lead to Liability Under the False Claims Act

Day Pitney Alert, May 30, 2025

It's Not to Whom You Are Married — Second Circuit Limits Marital Status Protections Under NYC Law

Day Pitney Alert, May 13, 2025

Executive Orders Raise Compliance Concerns for Employers

Day Pitney Alert, May 6, 2025

New Jersey Supreme Court Rules All Commissions Are Wages Under the New Jersey Wage Payment Law, Exposing Employers to Criminal and Civil Penalties for Non-Payment

Day Pitney Alert, April 14, 2025

New Jersey's New Pay Transparency Law Is on the Horizon

November 20, 2024

NLRB GC Proposes Significant Penalties for Employers' Use of Non-Compete and Stay-or-Pay Agreements

October 11, 2024

Texas Court Invalidates FTC Noncompete Rule Nationwide

August 21, 2024

EEOC Final Rule and Interpretive Guidance on the Pregnant Workers Fairness Act and Legal Challenge to the Final Rule

May 30, 2024

New York Employment Law Developments: Paid Lactation Breaks, Posting Requirements and More

May 22, 2024

EEOC's New Guidance on Workplace Harassment Being Challenged

May 21, 2024

Updated: U.S. Department of Labor Increases Exempt Salary Thresholds

May 20, 2024

Union Officials and Other Non-Employees Now Allowed in OSHA Inspections

May 14, 2024

Updated: NLRB's Proposed Joint Employer Rule Is Still in Flux

May 8, 2024

New Protections for Domestic Workers Under the New Jersey Domestic Workers' Bill of Rights

April 11, 2024

2023 New Jersey Employment Law Recap and Looking Ahead in 2024

January 29, 2024

U.S. Department of Labor Finalizes Independent Contractor Rule

January 26, 2024

U.S. Department of Labor Proposes Increases to Exempt Salary Thresholds

December 4, 2023

District of New Jersey Reiterates What Is Just Not Reasonable

September 18, 2023

Supreme Court Reexamines Undue Hardship Standard for Title VII Religious Accommodation

August 4, 2023

New Jersey Employers Face New Reporting Requirements Under Unemployment Insurance Law

July 28, 2023

NLRB Overhauls Independent Contractor Test for the Third Time in Less Than a Decade

June 20, 2023

Updated: New York Legislature Passes Noncompete Ban

June 13, 2023

2023 Annual Employment and Labor Conference

June 7, 2023

NLRB General Counsel Clarifies Limits on Broad Confidentiality and Non-Disparagement Provisions in Employment Documents

May 23, 2023

UPDATED: New York City Makes Moves to Expand Protections Against Appearance-Based Discrimination

May 18, 2023

New York Updates Sexual Harassment Prevention Model Policy and Training Materials

May 3, 2023

New York State and City Pay Transparency Laws Continue to Evolve

March 24, 2023

NLRB Limits Use of Confidentiality and Non-Disparagement Provisions

March 7, 2023

UPDATED: Groundbreaking Changes to Temporary Workers' Rights in New Jersey

March 2, 2023

2022 New Jersey Employment Law Recap and Looking Ahead in 2023

February 24, 2023

Omnibus Spending Bill Includes New Workplace Protections for Pregnant and Nursing Employees

January 19, 2023

Congress Tells Victims to Speak Out!

January 6, 2023

New York Law Prohibits Employers From Disciplining Employees for Lawful Absences

December 20, 2022

Have You Told Your Employees About Their Rights? New Workplace Posting and Distribution Requirements

November 17, 2022

The "STOP WOKE Act" – Florida's Attempt to Prohibit Mandatory Employee Diversity Training Put on Hold for Now

October 21, 2022

Connecticut Expands Anti-Discrimination Protections

October 20, 2022

DOL Shakes Up Employee/Independent Contractor Distinction Again

October 17, 2022

Don't Fall Behind: Stay Up to Date With the Changes to New York's Employment Laws

October 3, 2022

Weeding Out Impaired Employees: NJ Commission Issues Guidance on Adverse Employment Action for Cannabis Use  
September 20, 2022

When Less Isn't More: An Overview of East Bay's Impact on Employee Misclassification  
August 8, 2022

EEOC'S Updated COVID-19 Guidance Places Additional Restrictions on Employers  
July 20, 2022

Day Pitney's Annual Employment and Labor Conference Session 2  
June 16, 2022

NJ Court Holds First Amendment Does Not Prohibit Employee Discharge for Racially Insensitive Post  
June 8, 2022

New York City Council Votes to Amend Pay Transparency Law and Extend Effective Date to November 1, 2022  
May 2, 2022

The 'Other' ADA Claim - Website Accessibility Under Title III  
April 28, 2022

UPDATED: 2022 Brings More Employment Law Updates for New York Employers  
April 14, 2022

Do You Know Where Your Employees Are? The Risks of Remote Work  
April 11, 2022

Don't Be Late on Wage Payments to Terminated Employees in Massachusetts  
April 7, 2022

Employers Are Required to Provide Written Notice of Tracking Devices in Vehicles Used by Their Employees  
March 21, 2022

EEOC's Advice to Employers on Accommodating Religion and COVID-19 Vaccines in the Workplace  
March 16, 2022

Massachusetts Ends COVID-19 Emergency Paid Sick Leave Program  
March 11, 2022

Biden Signs Act Restricting Forced Arbitration of Sexual Harassment or Assault Claims  
March 4, 2022

2021 Recap and What's New for 2022: Updates to New Jersey Employment Law  
January 19, 2022

Updated: The Supreme Court Has Spoken: OSHA ETS Stayed  
January 14, 2022

New Year, New(ish) Connecticut Employment Laws  
January 13, 2022

Keeping Up With New York's New Employment Laws in the New Year  
January 11, 2022

Sixth Circuit Lifts Stay of OSHA COVID-19 Emergency Temporary Standard Requiring Vaccination or Testing  
Day Pitney Alert, December 21, 2021

UPDATED: OSHA Issues COVID-19 Emergency Temporary Standard Requiring Vaccination or Testing  
November 9, 2021

Biden DOL Rescinds Trump-Era FLSA Joint Employment Rule  
October 28, 2021

New York City Mandates Private Employers to Provide Retirement Savings Plans for Employees; Similar Statewide Law Not Far Behind

October 28, 2021

New York Amends Labor Law and Expands Coverage for Wage Theft

October 27, 2021

New Jersey Amends Law Against Discrimination to Expand Protections Against Age Discrimination

October 8, 2021

New York Revises Model Workplace Safety Plan Under HERO Act

October 4, 2021

NY Designates COVID-19 a Highly Contagious Communicable Disease, Triggering HERO Act Workplace Safety Plans

September 13, 2021

New Jersey Supreme Court Makes Clear That No Adverse Action Is Required for Failure-to-Accommodate Claims

July 29, 2021

President Biden Issues Executive

Day Pitney Advisory, July 29, 2021

New York Issues HERO Act Airborne Infectious Disease Exposure Prevention Standard and Model Plan

July 8, 2021

New Jersey Supreme Court Weighs In on Pregnant Workers Fairness Act: Undue Hardship Is Not What You Thought It Was

July 6, 2021

A WARNING to New Jersey Employers Contemplating Mass Layoffs or Other Business Change

June 28, 2021

New York Amends HERO Act Mandating Workplace Safety Plan for Airborne Infectious Diseases

June 25, 2021

EEOC OKs Employer COVID-19 Vaccine Mandates and Incentives

June 11, 2021

New Jersey Executive Orders 242 and 243 Reduce COVID-19 Workplace Restrictions

May 28, 2021

New York Passes 'HERO' Act Mandating Workplace Safety Plan for Airborne Infectious Diseases

May 11, 2021

New Jersey Guidance Supports Mandatory Vaccination Policies

April 12, 2021

Not So Fast: New York City Ordinance Ends At-Will Employment for Fast Food Workers

March 25, 2021

What the American Rescue Plan Means for Employers

March 19, 2021

Connecticut Follows Growing Trend in Proscribing Workplace Hair Discrimination

March 18, 2021

Out With the Old, In With the New: President Biden Shakes Up Federal Labor Law

March 3, 2021

EEOC Updates: Conciliation Program Changes, Guidance on Systemic Discrimination, EEO-1 Data Collection Resumes and New Leadership

February 17, 2021

New Guidance Indicates Employees Entitled to Multiple Leaves Under the New York COVID-19 Sick Leave Law  
February 1, 2021

A New Year Means New Changes to NY and NJ Wage and Hour Laws  
January 20, 2021

Massachusetts Paid Family and Medical Leave Act Provisions Go Into Effect on January 1, 2021  
December 29, 2020

Congress Declines to Extend Paid Sick and Emergency Family Leave but Incentivizes Employers To Continue Voluntarily Providing Leaves  
December 28, 2020

EEOC Issues Guidance for Employers on COVID-19 Vaccines, But Should Employers Mandate Vaccination?  
December 22, 2020

New DOL Rule Expands Religious Employers' Exemption From Federal Contracting Anti-Discrimination Requirement  
December 17, 2020

As Deadlines for New Connecticut Laws Approach, Employers Must Be Sure To Comply  
December 15, 2020

CDC Updates Guidance on Quarantine After COVID-19 Exposure, But State Guidance May Differ  
December 7, 2020

New Jersey Employees' Children Not Going Back to In-Person School - Now What?  
September 2, 2020

New Jersey Cracks Down on Independent Contractor Misclassification and Wage Statements  
July 30, 2020

The Road Back' from COVID-19 - Reopening NJ Businesses  
May 22, 2020

New COVID-19 Amendments to New Jersey's WARN Act Provide Some Relief for Employers  
April 16, 2020

New Jersey Expands Protections and Paid Leave Benefits for Employees Impacted by COVID-19  
March 30, 2020

Department of Labor Wage and Hour Division Issues Employment Law Guidance Relating to COVID-19  
March 26, 2020

New Jersey Governor Orders Businesses to Make "Best Efforts" to Reduce On-site Staff and Closes "Non-Essential" Retail Establishment Due to COVID-19 Pandemic  
March 22, 2020

COVID-19 Emergent Paid Family/Sick Leave Laws Passed and What This Means to Your Business  
March 20, 2020

COVID-19 - Answers to Questions on Every Employer's Mind  
March 18, 2020

HIPAA Considerations When an Employee Tests Positive for COVID-19  
March 18, 2020

Preparing Your Business for the New Coronavirus, COVID-19  
March 3, 2020

New Jersey Becomes First State in the Country To Require Severance in Mass Layoffs  
January 28, 2020



What Employers Should Take From the EEOC's Latest Report

December 12, 2019

Day Pitney to Host CLE on Employment Law and Contract and Tort Healthcare Issues

April 13, 2016

Mind the Gap: How to Navigate Pay Disparity and Comply With Equal Pay Requirements

September 11, 2019

New Jersey Imposes New Restrictions on Salary History Inquiries by Private Employers

July 31, 2019

Commuting and Retirement: New Benefits for New Jersey Employees and Payroll Deductions for Employers

June 28, 2019

Employee Privacy Laws: New Jersey

June 12, 2019

The Weighty Matter of Obesity in the Workplace

June 4, 2019

Navigating Requests for the Accommodation of Uncommon Religious Practices

March 28, 2019

New Jersey Becomes First State to Ban Employers From Using Arbitration, Nondisclosure and Confidential Settlement Agreements for All Claims of Discrimination, Harassment or Retaliation

March 19, 2019

NJ Leave Law Amendments: More Employers Affected, More Leave, More Covered Family Members and More Paid Benefits

February 26, 2019

NYC Commission on Human Rights Declares a Ban on 'Hair' Discrimination

February 22, 2019

New York Enacts Gender Expression Non-Discrimination Act

February 1, 2019

We're Pregnant: New State Law Protections for Pregnant Employees

March 29, 2018

We're Pregnant: New State Law Protections for Pregnant Employees

november/december 2018 edition

NYC Releases Guidance and Notice Posting For New Temporary Work Schedule Changes Law

September 26, 2018

What's on the Horizon? Important Proposed Legislation in New Jersey

September 26, 2018

NJ Employers Beware: Federal and State Departments of Labor Team Up to Address Independent Contractor Misclassification

September 26, 2018

Despite Contrary Law in Other States, New Jersey Employers Not Required to Accommodate Medical Marijuana Use

September 26, 2018

New Massachusetts Noncompetition Law Effective October 1

September 26, 2018



Massachusetts "Grand Bargain" Creates Paid Family and Medical Leave, Increases the Minimum Wage and Eliminates Retail Premium Pay Obligations

September 26, 2018

NYS Issues Draft Model Sexual Harassment Policy and Training: Employers Must Act to Ensure Compliance With Both State and City Laws

September 4, 2018

New York City Releases Required Sexual Harassment Poster and Information Sheet

August 8, 2018

As the Fraternity of States With Earned Sick Leave Adds a New Chapter, New Jersey Employers Can Expect Big Changes

June 27, 2018

New Jersey Joins a String of States Cracking Down on Employee Misclassification

June 27, 2018

NYS and NYC Crack Down on Sexual Harassment, Imposing New Requirements on Employers

June 27, 2018

Enforcing Arbitration Agreements in New Jersey

June 27, 2018

Still Using Unpaid Interns? Be Sure to Comply With Federal and Applicable State Law

June 27, 2018

New Jersey Enacts Statewide Earned Sick Leave Law

May 2, 2018

New Jersey Enacts a Broad and All-Encompassing Equal Pay Act

April 30, 2018

Supreme Court Recently Limited the Scope of Whistleblower Protection Under Dodd-Frank, But State Laws Continue to Provide Broader Protections

March 29, 2018

New IRS Code Section 45S - Employer Credit for Paid Family and Medical Leave

March 29, 2018

Reorienting Title VII - Although The Second Circuit Expands Sexual Orientation Protections Under Federal Law, State Laws Remain More Favorable to Plaintiffs

March 29, 2018

Do Your Severance Agreements Adequately Protect You?

March 29, 2018

Now Put It in Writing: New York City's New Employer Requirements for Workplace Accommodations

March 29, 2018

How Long and Where Can Employees Breastfeed or Pump Milk? States Continue to Weigh In

March 29, 2018

New Year Brings Even More Leave Requirements for New York City Employers

March 29, 2018

Revised EEO-1 Reporting Requirements Stayed Indefinitely

August 31, 2017

AARP Lawsuit Puts EEOC In An Awkward Position

November 23, 2016

Annual Labor and Employment Conference - NY

June 15, 2011

Annual Labor and Employment Conference - New Jersey

June 8, 2011

## News

Day Pitney Receives Mansfield Certification for Seventh Consecutive Year; Commits to Mansfield Rule 2024-2025

October 2, 2024

Day Pitney's Boston Office Selected for Empowering Women Awards List

July 29, 2024

Rebecca Iannantuoni Accepts Pro Bono Award From Connecticut Bar Association

April 4, 2024

Day Pitney Recognized for "Tipping the Scales" With 2023 New Partner Class by Diversity & Flexibility Alliance

November 6, 2023

Day Pitney Receives Mansfield Certification for Sixth Consecutive Year; Commits to Mansfield Rule 7.0

October 10, 2023

Day Pitney's Boston Office Selected for Inaugural Empowering Women Awards List

July 31, 2023

Day Pitney's Manuel A. Garcia-Linares Named a Diverse Voice by South Florida Business Journal

June 20, 2023

Rosendo Garza Accepts Pro Bono Award From Connecticut Bar Association

May 4, 2023

Day Pitney Recognized with a Connecticut Law Firm Volunteers of the Year Award from the Pro Bono Partnership

April 17, 2023

Day Pitney Associate Daniel Pierre Named to 2022 Lawyers of Color Hot List

January 5, 2023

Day Pitney Recognized for "Tipping the Scales" With 2022 New Partner Class by Diversity & Flexibility Alliance

November 4, 2022

Day Pitney Honors Washington, D.C. Attorneys with 2022 Coleman Awards for Exemplary Pro Bono Service

October 27, 2022

Day Pitney Receives Mansfield Certification for Fifth Consecutive Year; Commits to Mansfield Rule 6.0

October 18, 2022

Day Pitney Participating in Mansfield Rule 6.0 Certification Process

August 16, 2022

Chambers USA 2022 Ranks 34 Day Pitney Attorneys and 13 Practices

June 1, 2022

Day Pitney Earns Perfect Score in HRC's 2022 Corporate Equality Index - Best Place to Work for LGBTQ+ Equality

January 27, 2022

Day Pitney Recognized on Law360's "Ceiling Smashers" List for Having a High Representation of Women Equity Partners

September 20, 2021

Day Pitney Receives Mansfield Certification for Fourth Consecutive Year; Commits to Mansfield Rule 5.0  
September 13, 2021

Chambers USA 2021 Ranks 31 Day Pitney Attorneys and 13 Practices  
May 21, 2021

Day Pitney Earns Highest Recognition in HRC's 2021 Corporate Equality Index - Best Place to Work for LGBTQ Equality  
January 28, 2021

Chambers USA 2020 Ranks 34 Day Pitney Attorneys and 12 Practices  
April 30, 2020

Day Pitney Receives Pro Bono Award from Connecticut Fair Housing Center  
June 4, 2019

Chambers USA 2019 Ranks 38 Day Pitney Attorneys and 12 Practices  
May 8, 2019

Chambers USA 2018 Ranks 39 Day Pitney Attorneys and 11 Practices  
May 25, 2018

Chambers USA 2017 Ranks 41 Day Pitney Attorneys  
May 26, 2017

87 Day Pitney Lawyers Named to 2016 Super Lawyers List  
November 10, 2016

71 Day Pitney Lawyers Named to 2017 Best Lawyers List  
August 15, 2016

Chambers USA 2016 Ranks 47 Day Pitney Attorneys  
May 27, 2016

91 Day Pitney Lawyers Named to 2015 Super Lawyers List  
October 30, 2015

68 Day Pitney Lawyers Named to 2016 Best Lawyers List  
August 24, 2015

Chambers USA 2015 Ranks 51 Day Pitney Attorneys  
May 21, 2015

Eighty-Four Day Pitney Attorneys Recognized by Super Lawyers for 2014  
November 3, 2014

Seventy Day Pitney Lawyers Named to 2015 Best Lawyers List  
August 22, 2014

Chambers USA 2014 Ranks 46 Day Pitney Attorneys  
May 23, 2014

Eighty-eight Day Pitney Attorneys Recognized by *Super Lawyers* for 2013  
October 22, 2013

Seventy Day Pitney Lawyers Named to 2014 Best Lawyers List  
August 15, 2013

Chambers USA 2013 Ranks 39 Day Pitney Attorneys  
May 24, 2013

Ninety-eight Day Pitney Attorneys Recognized by *Super Lawyers*  
October 22, 2012

Seventy-Five Day Pitney Lawyers Named to Best Lawyers List for 2013

August 23, 2012

Chambers USA 2011 Ranks 45 Day Pitney Attorneys

June 10, 2011

Chambers USA 2010 Ranks 40 Day Pitney Attorneys

June 11, 2010

## In The Media

Once a Branding Strategy, Pay Transparency is Here to Stay

June 4, 2025

Mid-Market Roundup: Firms Embrace Diversity, Business Development Efforts

Law.com's Mid-Market Report, November 6, 2023

2023 Annual Employment and Labor Conference

June 7, 2023

Day Pitney Honored For Volunteer Work By Nonprofit Org

Law360 Pulse, April 19, 2023

No, Employees Aren't Legally Required to Report Positive COVID-19 Tests to Employers

July 19, 2022

Appeals Court Tosses Lawsuit over Trump-Era Joint Employer Rule

SHRM's HR Daily, November 8, 2021

Understanding and Managing Bias

October 14, 2021

Kritika Bharadwaj, Benjamin Haglund, Theresa Kelly, Naju Lathia and Elizabeth Sher Represent Firm at SABA-NJ 2021 Annual Gala

South Asian Bar Association of New Jersey, October 1, 2021

New York City Protects Fast Food Workers with Ban on At-Will Terminations

GOBankingRates.com, June 23, 2021

Day Pitney Honors Attorneys With 2021 Coleman Awards

Connecticut Law Tribune, May 12, 2021

After Hours: Day Pitney Honors Attorneys With Pro Bono Awards

New Jersey Law Journal, May 12, 2021

New Jersey Law Journal: On the Move

New Jersey Law Journal, May 7, 2021

Experts Advise Ramping Up Diversity Efforts in Tandem with Societal Shifts

Hartford Business Journal, Focus: Diversity Section, April 6, 2021

Working From Home or Living at Work: The Uncertainties of Tracking Work Hours While Working Remotely

Day Pitney Employment and Labor Quarterly Update, October 30, 2020

Pro Bono Partnership Pundit: Lawyers Giving Back to Their Communities

The Dodge Blog, April 25, 2017

Day Pitney Lawyers Speak at Pro Bono Institute at Esai Inc. Conference

September 18, 2015

Theresa Kelly and David Reid Contribute Article to *New Jersey Labor and Employment Law Quarterly*  
New Jersey Labor and Employment Law Quarterly, July 1, 2013