

ATTORNEY BIOGRAPHY



Kimberly A. Rozak

Partner

Tel: 508.860.1428 | **Fax:** 508.983.6294 | **Email:** krozak@mirickoconnell.com

Worcester Office: 100 Front Street | Worcester | MA | 01608-1477

Legal Administrative Assistant

Debra M. Ostrander

Tel: 508.860.1423 | Email: dostrander@mirickoconnell.com

Practice Groups and Specialty Areas

Labor, Employment and Employee Benefits
 Employee Benefits and Executive Compensation
 Employment Litigation
 Human Resource-Related Advice and Training
 Education Law
 Labor Law
 Municipal Law

Kim is a partner in the firm's Labor, Employment and Employee Benefits Group. She currently serves as counsel to a wide variety of employers, both in the public and private sectors, including for-profit and not-for-profit organizations. Her practice includes representing employers before the Massachusetts Commission Against Discrimination, the Equal Employment Opportunity Commission, the National Labor Relations Board, the State Division of Labor Relations, and the Civil Service Commission. She also appears in state and federal courts in connection with discrimination cases. She regularly advises clients on a broad range of topics, such as the drafting and implementation of personnel policies, discipline and termination practices, and employment and non-compete agreements. She also represents numerous clients in labor arbitration matters. Kim's practice includes representing school committees and school districts, handling arbitrations and labor complaints, and providing advice on issues related to school policy and student discipline.

Kim was recognized by *Massachusetts Lawyers Weekly* as one of the "Top Women in Law" for 2010. In 2011, Kim was named a Massachusetts "Super Lawyer" by *Boston* magazine and *Law & Politics*.

Kim has exclusively practiced management-side labor and employment law throughout her career. She was previously associated with Morgan, Brown and Joy in Boston, where her practice was also focused on traditional labor and employment law. She is also admitted to practice in state and federal courts in Arizona, where she worked as an assistant attorney general for the Navajo Nation Department of Justice, handling a wide range of litigation matters for the tribal government, including discrimination and labor complaints involving highly complex jurisdictional issues. She began her career by serving as a clerk to the Honorable Jerome Niedermeier, in the U.S. District Court for the District of Vermont.

Representative Matters

- Successfully represented a client in related cases before a state administrative agency, proving that workers were independent contractors and not employees under Massachusetts law
- Represented a transportation industry employer in arbitration involving the termination of an employee who also served as vice president of the union; obtained an award upholding termination
- Represented a transportation industry employer in arbitration involving the discipline of an employee and challenges the by union to the employer's use of video surveillance cameras; obtained an award upholding the discipline and no finding of invasion of privacy under Massachusetts law
- Obtained findings of lack of probable cause in two related national-origin cases before the MCAD, where brothers employed by the same manufacturer each brought separate discrimination charges and were the only employees of

Education

JD, Boston College

BA, *with honors*, College of the Holy Cross

Bar and Court Admissions

Massachusetts

Arizona

U.S. District Court for Massachusetts

U.S. District Court for Arizona

U.S. Court of Appeals for the First Circuit

Navajo Nation

Professional/Community Affiliations

Worcester Economic Club, former president, member of the Executive Committee

American Bar Association

Massachusetts Bar Association

Worcester County Bar Association, former co-chair, Labor and Employment Section

State of Arizona Bar Association

Navajo Nation Bar Association

National School Board Association, Council of School Attorneys

ATTORNEY BIOGRAPHY – KIMBERLY A. ROZAK

Representative Matters (continued)

- Obtained a finding of lack of probable cause by the MCAD for a non-profit client in a protracted sexual harassment, retaliation and constructive discharge case
- Obtained the dismissal of an unfair labor practice charge by both the Massachusetts Labor Relations Commission and the NLRB in charges filed by union against major health care employer for unilaterally changing technology in the workplace
- Obtained a decision from the Massachusetts Civil Service Commission upholding the 60-day suspension of a municipal employee in a case that spanned eight years and involved an interlocutory appeal to the Superior Court in which the municipality also prevailed
- Negotiated a favorable prevailing wage settlement with the State of Massachusetts for an employer that improperly calculated the benefits component of the prevailing wage
- Mediated and settled multiple protracted cases involving municipal employee in the global resolution of the matter on terms that included an eight-year prohibition on the employee's ability to compete for any promotional opportunities within the department
- Successfully represented a range of clients in arbitrations involving procedural and substantive arbitrability, including before the Massachusetts Superior Court
- Preserved management rights through a number of successful arbitrations for broad range of clients in the public and private sectors

Publications/Presentations

- "Understanding GINA and Avoiding Violations," Worcester Regional Chamber of Commerce, April 2011 and Mirick O'Connell Labor, Employment and Employee Benefits Seminar, March 2011
- "Labor Law Update: Major Cases Reviewed," Massachusetts Municipal Personnel Association annual meeting, October 2010
- "Identity Theft," Worcester Regional Chamber of Commerce, May 2010
- "Addressing Employee Drug and Alcohol Use and Abuse," Mirick O'Connell Labor, Employment and Employee Benefits Seminar, March 2010
- "Compliance with the Massachusetts Wage and Hour Law," HRMA (February 2010)
- "Sex-Based Stereotype Serves as Foundation for Discrimination Suit," HRMA (May 2009)
- "Independent Contractors vs. Employee Issues," North Central Chamber of Commerce, September 2008
- "Handling Cases before the MCAD," MCLE Paralegal Workshop, June 2008
- "New Treble Damages Law," Mirick O'Connell Seminar, June 2008
- "Employee Handbooks for School Districts," Massachusetts Association School Personnel Administrators Handbook Workshop, May 2008
- "The Nuts and Bolts of Frequently Used Employment Records," Mirick O'Connell Labor, Employment and Employee Benefits Seminar, November 2007
- "The New Independent Contractor Law - Revisited," *HRMA Perspectives* (October 2007)
- "Avoid Layoffs Under the Massachusetts Workshare Program," *HRMA Perspectives* (March 2002)
- "The New Reality: Temporary Workers Can Be Placed in the Same Bargaining Unit as Regular Employees," *HRMA Perspectives* (September 2002)
- "Vacation Payments Must be Treated as Wages in Massachusetts," *HRMA Perspectives* (November 1999)