

## Richard Reibstein

Partner

New York

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As a leading practitioner of enhancing independent contractor compliance and defending against misclassification claims, Richard represents large and small companies in administrative and judicial matters across the U.S., in addition to his labor/employment and noncompete/trade secrets practices.

### OVERVIEW

Richard regularly counsels employers on how to comply with the law and avoid lawsuits that could arise under an array of labor and employment laws. He also conducts workplace investigations and defends employers in claims involving employment discrimination (including workplace harassment, hostile work environment, and disability claims), wrongful discharge and workplace torts (including defamation, fraud, invasion of privacy, tortious interference, and negligent hiring and retention), and family and medical leaves and benefit disputes. Richard negotiates collective bargaining agreements with unions on behalf of management, handling matters before the National Labor Relations Board as well as labor arbitrations.

In the area of independent contractor and wage/hour compliance, Richard represents scores of clients, both large and small, in an array of diverse industries, including the gig economy. He has developed a sought-after legal product, IC Diagnostics™, that has been used by hundreds of clients in the past 12 years to enhance their compliance with federal and state independent compliance laws. Richard defends businesses across the country before administrative agencies in regulatory investigations and proceedings and before the courts in single plaintiff and class action employee misclassification lawsuits as well as litigation seeking overtime, unpaid benefits, and unpaid expenses. He works closely with employment tax lawyers in defending against IRS audits.

Richard is the publisher of the only legal blog with original content dedicated to independent contractor compliance/misclassification. He has published more than 360 comprehensive blog posts and has been quoted more than 120 times by leading legal, business, and media publications for his insights in this area of law. Since 2010, Richard has written more than 60 articles and has made more than two dozen presentations to businesses and industry associations on the subject.

Richard has extensive experience in the area of noncompete and trade secret law. He crafts corporate protection plans and negotiates and drafts state-of-the-art noncompete agreements and other types of restrictive covenants. Richard counsels clients on securing compliance with such agreements by departing employees and their new employers and, conversely, how to lift out key employees of competitors who have signed these types of agreements, and he litigates noncompetes, non-solicitations, and trade secret matters in state and federal courts.

## REPRESENTATIVE MATTERS

- Richard has obtained a number of temporary restraining orders and preliminary injunctions and secured permanent injunctions restraining unfair competition and trade secret misappropriation, as well as reimbursement of legal fees and expenses.
- In response to a claim of pregnancy discrimination, Richard filed a counterclaim for willful destruction of the contents of a company laptop, leading to a mutual withdrawal of all legal proceedings.
- In an IRS employment tax audit of an insurance industry client, Richard and one of his tax partners obtained a determination that thousands of workers had been properly classified as independent contractors, avoiding an exposure of more than \$20 million.
- As special independent contractor counsel, Richard obtained the dismissal of a nationwide collective and class action misclassification lawsuit brought in Massachusetts involving more than 1,800 local childcare consultants for an au pair agency that classified the au pairs as independent contractors.
- Richard has litigated a number of other class and collective actions and arbitrations alleging misclassification of independent contractors and employees and resolved them in mediation for a small fraction of the amounts demanded.
- In an audit by the U.S. Department of Labor of a client in the commercial cleaning industry that focused on the independent contractor status of hundreds of service providers, Richard secured a finding that the cleaning contractors had been classified correctly.
- Drawing on his experience as an attorney for the NLRB in Washington, D.C. and New York City, Richard has helped clients in a variety of industries maintain a union-free workplace. Where clients have an existing collective bargaining relationship, he has assisted them in labor contract negotiations, handled labor arbitrations, and defended against unfair labor practice charges before the NLRB.
- Richard has defended hundreds of unemployment insurance audits and benefit claims in more than 35 states for a wide variety of clients that engage workers as independent contractors.

## AWARDS

- *The Best Lawyers in America*®: Employment Law – Management, Litigation – Labor and Employment (2025-2026)
- *Super Lawyers*® New York, Employment and Labor (2014-2019, 2021-2025)
- JD Supra Readers' Choice Awards, Top Author, employer liability (2016-2017 and 2019-2022)
- JD Supra Readers' Choice Awards, Top Author, class actions (2016, 2020-2021, 2026)

## TOP AREAS OF FOCUS

- Class Action
- Independent Contractor Misclassification + Compliance
- Labor + Employment
- Noncompete + Trade Secrets

## ALL AREAS OF FOCUS

- Accessible Facilities and Services (ADA Titles II and III)
- Class Action
- Employment Counseling
- Independent Contractor Misclassification + Compliance

- Labor + Employment
- Litigation + Trial
- Noncompete + Trade Secrets
- OSHA + Workplace Safety
- Traditional Labor
- Wage + Hour Matters

## EDUCATION AND CERTIFICATIONS

### EDUCATION

- The George Washington University Law School, J.D., *with honors*
- University of Rochester, B.A., *with distinction*

### BAR ADMISSIONS

- New Jersey
- New York
- Pennsylvania (Inactive)

### COURT ADMISSIONS

- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of New York
- U.S. District Court, District of New Jersey
- U.S. Tax Court
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Third Circuit
- Supreme Court of the United States

## SPEAKING ENGAGEMENTS

- Speaker, "Exit Strategies for Major Employment, Independent Contractor, and Commercial Disputes," Locke Lord Webinar, June 18, 2021.

## PUBLICATIONS

- Author, "The Upcoming Independent Contractor Regulations," *New York Law Journal*, February 23, 2026
- Co-author, "Insights Into the New 2026 Employment Laws for New York Employers," *Troutman Pepper Locke*, January 15, 2026.
- Author, "Garden State May Soon Become Even Less Hospitable to Independent Contractors ?Than the Golden State," *Troutman Pepper Locke*, May 1, 2025. Republished in *Employee Benefit Plan Review, September 2025, Volume 79, Number 7*.
- Podcast, "Are Reality TV Contestants Independent Contractors or Employees? From Pods to Paychecks With Love Is Blind," *Hiring to Firing* Podcast, March 11, 2025.
- Co-author, "New York Senate Passes First-in-the-Nation Bill Requiring Mandatory Review and Revocation Period for All Severance Agreements," *Troutman Pepper Locke*, March 5, 2025. Republished in *Compensation*

Standards on April 25, 2025.

- Author, "'Love is Blind' – Can Reality TV Shows Minimize Independent Contractor Misclassification of Contestants?," Locke Lord, December 14, 2024.
- Author, "Federal Government Study Shows Independent Contractor Working Arrangement Steadily Increasing: November 2024 IC Legal News Update," Locke Lord, December 10, 2024.
- Author, "Due Diligence of a Target Company's Independent Contractor Misclassification Risks by Private Equity Firms," Locke Lord, December 4, 2024.
- Author, "How Health Care Systems Can Guard Against Independent Contractor Misclassification Liability for Contract Nurses," Locke Lord, December 3, 2024.
- Author, "Newest State Independent Contractor Pay Protection Law Creates Uncertainties: October 2024 IC Legal News Update," Locke Lord, November 8, 2024.
- Author, "Federal Independent Contractor Law Will Hardly Be Impacted by a Change in Administration, but State Laws Will Continue to Be Vigorously Enforced," Locke Lord, November 6, 2024.
- Author, "NLRB About to Rule That Independent Contractor Misclassification Alone Violates Law," Locke Lord, October 22, 2024.
- Author, "Commentary: NLRB Poised to Rule That Independent Contractor Misclassification Alone Violates the Law, but Ruling Not Likely to Survive Court Review," Locke Lord, October 2024.
- Author, "Can Nurses Lawfully Be Classified as Independent Contractors? September 2024 IC Legal News Update," Locke Lord, October 9, 2024.
- Co-author, "Some Individuals Acting As Franchisees are Independent Contractors Under Massachusetts' Strict Classification Test," Locke Lord Quick Study, September 6, 2024.
- Author, "Court Challenges Filed to Final Independent Contractor Rule – But Does It Really Matter?" Locke Lord, February 2024.
- Author, "Labor Department's Final Rule on Independent Contractor Status – What Does It Mean Practically and Legally?" Locke Lord QuickStudy, January 9, 2024.
- Author, "Who Can Possibly Keep up With All the New Employment Laws in New York?" Locke Lord QuickStudy, December 15, 2023.
- Author, "Navigating Issues Around NY Freelancer Pay Protection Law," *Law 360*, December 12, 2023.
- Author, "Proliferating Pay Protection Laws Favoring Independent Contractors Create Perils for Businesses," Locke Lord, October 2023.
- Author, "New York Governor About to Sign Flawed Non-Compete Legislation?" Locke Lord QuickStudy, June 22, 2023.
- Author, "Why NLRB is Unlikely to Succeed in Misclassification Case," *Law 360*, May 20, 2023.
- Author, "Significant Changes Are Coming to the New Jersey WARN Act – What Large Employers Need to Know," Locke Lord QuickStudy, February 1, 2023.
- Author, "First State Law Enacted to Protect Fee Payments to Independent Contractors; New York 'Freelance Isn't Free Act' Will Likely Impact out-of-State Companies," Locke Lord QuickStudy, December 22, 2022.
- Author, "Now What? Update on Pay Transparency Laws and Tips on Compliance," Locke Lord QuickStudy, December 22, 2022.
- Author, "Now What? Tips for Avoiding Liability Under NYC, CA and Other Pay Transparency Laws," Locke Lord QuickStudy, November 9, 2022.
- Author, "Who's an Independent Contractor? Even More Regulatory Ping-Pong That Doesn't Change the Law," Locke Lord QuickStudy, October 11, 2022.
- Author, "First State Law Enacted to Protect Fee Payments to Independent Contractors; New York 'Freelance Isn't Free Act' Will Likely Impact Out-of-State Companies," Locke Lord QuickStudy, July 5, 2022.
- Author, "Why NLRB is Unlikely to Succeed in Misclassification Case," *Law360*, May 20, 2022.
- Author, "Is Independent Contractor Misclassification a Violation of the National Labor Relations Act?" Locke

Lord, May 2022.

- Author, “Are You Finding It Hard to Keep up With All the New Employment Laws in New York?” Locke Lord QuickStudy, March 11, 2022 updated May 24, 2022.
- Author, “Is New York’s New Electronic Monitoring Law Employer-Friendly?” Locke Lord QuickStudy, November 9, 2021.
- Author, “Can a Company Require an Independent Contractor to Be Vaccinated?” Locke Lord QuickStudy, October 4, 2021.
- Author, “Biden Administration’s Withdrawal of Trump’s Independent Contractor Rule: Just as Meaningless as the Rule It Withdrew,” Locke Lord QuickStudy, May 5, 2021.
- Author, “Pandemic Unemployment Benefits Extended Yet Again for Employees and Independent Contractors,” Locke Lord QuickStudy, March 23, 2021.
- Author, “Biden Independent Contractor Plan Sends Confusing Message,” *Law 360*, November 10, 2020.
- Author, “Should Independent Contractors Sign Covid-19 Liability Waivers?” *Bloomberg Law Insights*, July 21, 2020.
- Author, “Businesses Address New Unemployment Options for Independent Contractors,” *Construction Executive Journal*, April 29, 2020.
- Author, “Independent Contractor Misclassification and Compliance Law: 2010 – 2020,” *Bloomberg Law Professional Perspectives*, January 20, 2020.
- Author, “Existing Law Can Likely Solve Contractor Misclassification,” *Law 360*, December 16, 2019.
- Author, “How to Evaluate Portfolio Companies for Independent Contractor Misclassification,” *Private Equity Law Report*, June 18, 2019.

## MEDIA COMMENTARY

- Quoted, “New Jersey Delivery Firm Will Reclassify Independent Drivers as Employees,” *FreightWaves*, March 16, 2026.
- Quoted, “Proposed Labor Department Rule To Make It Easier for Companies To Classify People as Gig Workers,” *Marketplace*, March 5, 2026.
- Quoted, “Labor Agency’s Gig Worker Flip-Flopping Weakens Rules in Court,” *Bloomberg Law’s Daily Labor Report* and *Bloomberg Law Tax*, March 2, 2026.
- Quoted, “DOL Contractor Proposal Looks Familiar, With Less Deference,” *Law360*, February 26, 2026.
- Quoted, “Trump’s Independent Contractor Rule Revived, Minimal Difference From Earlier Version,” *Freight Waves*, February 26, 2026.
- Quoted, “DOL Proposes New(ish) Independent Contractor Rule,” *Brightmine*, February 26, 2026.
- Quoted, “More Gig Workers Could See Rights Without Status Change,” *Law360*, January 27, 2026.
- Quoted, “Misclassification Lawsuit: New Jersey Truck School’s Costly Settlement,” *Freight Waves*, November 28, 2025.
- Quoted, “State AG Actions Secure Workers’ Pay But Not Status,” *Law360*, November 5, 2025.
- Quoted, “First Step Taken by Trump Administration to Supplant Biden’s Independent Contractor Rule at Labor Department,” *Freight Waves*, September 8, 2025.
- Quoted, “Grocery Workers at Center of Latest NYC Wage Debate,” *Law360*, September 8, 2025.
- Quoted, “New Jersey Truckers Await – With Dread – Possible Changes in State’s Independent Contractor Law,” *FreightWaves*, August 12, 2025.
- Quoted, “NYC Gig Driver Pay Increases While Contractor Status Stays,” *Law360*, July 23, 2025.
- Quoted, “New Jersey, Feds Take Opposite Paths on Independent Contractor Rules,” *FreightWaves*, May 6, 2025.

- Quoted, "N.J. Gig Work Proposal Revives Doubts for Uber Driver Model," *Bloomberg Law*, April 29, 2025.
- Quoted, "DoorDash Rally Shows Wage Disputes Can Outlast AG Deals," *Law360*, April 28, 2025.
- Quoted, "State And Local Wage And Hour Updates To Watch," *Law360*, April 7, 2025.
- Quoted, "Trucking-Backed Suit May Be Arena for Dumping Biden Independent Contractor Rule," *FreightWaves*, February 3, 2025.