



## Richard S. Finkel

### Member

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### Profile

Rich focuses his practice on providing general counsel and litigation services in the areas of labor and employment law, municipal law, and land use and zoning.

Rich served in-house as general counsel to one of New York's largest townships for close to a decade and continues to represent various municipal entities in a general or litigation counsel capacity today. He takes an aggressive approach to defending claims against his clients, aiming to resolve them, whenever possible, in the most efficient manner and at the earliest possible juncture. Recent and representative examples of Rich's litigation results include:

#### Federal Court

- *Futia v. Westchester County Board of Legislators*, 852 Fed. Appx. 30 (2d Cir. 2021) (affirming dismissal of various constitutional claims based on absence of standing)
- *Donohue v. Wing*, 2018 U.S. Dist. LEXIS 158176 (E.D.N.Y. Sep. 17, 2018) (adopted Magistrate's Report and Recommendation and dismissed substantive due process and intimate association claim filed by estate of decedent police officer and his spouse);
- *DiRuzza v. Lanza*, 685 Fed. Appx. 34 (2d Cir. 2017) (affirming District Court's dismissal of intentional infliction of emotional distress claim against individual police officer);
- *Favors v. Triangle Servs.*, 2016 U.S. Dist. LEXIS 124018 (E.D.N.Y. Sept. 13, 2016) (enforcing mandatory arbitration provision contained in collective bargaining agreement and staying plaintiff's pursuit of federal and state discrimination claims in district court);
- *Gaffney v. Mamaroneck Police Dep't.*, 2016 U.S. Dist. LEXIS 117533 (S.D.N.Y. August 31, 2016) (granting 12(b)(6) motion and dismissing age discrimination complaint filed by police lieutenant who claimed he was entitled to Chief of Police position);
- *Westchester Cnty. Independence Party v. Astorino*, 137 F. Supp.3d 586 (S.D.N.Y. 2015) (granting 12(b)(6) motion and dismissing civil RICO claim);
- *DiRuzza v. Village of Mamaroneck*, 2014 U.S. Dist. LEXIS 166208 (S.D.N.Y. Oct. 6, 2014) (granting 12(b)(6) motion and dismissing single claim against individual police officer); and

### Education

- Hofstra University School of Law (J.D., *cum laude*, 1988)
- Syracuse University (B.S. 1982)

### Bar/Court Admissions

- New York
- U.S. Court of Appeals for the Second Circuit
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Southern District of New York

### Practices

- Municipalities
- Labor and Employment

- *Hommel v. City of Long Beach*, 2014 U.S. Dist. LEXIS 33590 (E.D.N.Y. March 14, 2014) (granting 12(b)(6) motion and dismissing discharged employee's political retaliation claim).

#### State Court

- *Fair v. City of Mount Vernon*, 210 AD3d 868 (2d Dep't 2022)(affirming dismissal of state law discrimination claim based upon failure of plaintiff to file notice of claim in compliance with City Charter)
- *CSEA v. City of Mount Vernon*, 206 A.D.3d 912 (2d Dep't 2022)(affirming dismissal of city employee who failed to timely exercise retreat rights under local civil service commission rules)
- *McNulty v. Port Washington Police District*, 191 AD3d 659 (2d Dep't 2021)[affirming dismissal of police officers' personal injury action on ground that it was precluded by the workers compensation law]
- *Matter of Save Harrison, Inc. v. Town/Village of Harrison, NY*, 2019 N.Y. App. Div. LEXIS 423 (2d Dep't 2019) (upholding dismissal of spot zoning, contract zoning, constitutional, and certain SEQRA claims);
- *Matter of City of Long Beach v. Long Beach Professional Fire Fighters Assn., Local 287*, 161 A.D.3d 855 (2d Dept. 2018) (modifying lower court order denying City's application for permanent stay of arbitration and granting stay insofar as grievance purported to challenge layoff of fire fighters);
- *Chung v. Mary Manning Walsh Nursing Home Co., Inc.*, 2017 N.Y. App.Div. LEXIS 929 (1st Dept., February 7, 2017)(reversing lower court order and dismissing race and national origin discrimination complaint on statute of limitations grounds after enforcing stipulated resignation date set forth in disciplinary settlement agreement);
- *Prudenti v. County of Suffolk*, 142 A.D.3d 1150 (2d Dept. 2016) (affirming lower court order finding that Legislature had ratified memorandum of agreement by accepting benefits of agreement);
- *Pilla v. Kamsomtob*, 142 A.D.3d 1116 (2d Dept. 2016) (affirming lower court order voiding petitions submitted in support of a permissive referendum);
- *Matter of 24 Franklin Avenue R.E. Corp. v. Heanship*, 139 A.D.3d 742 (2d Dept. 2016) (modifying lower court order that granted summary judgment against municipal defendants, requiring plaintiff to resubmit to permitting process);
- *Matter of Russo v. Burke*, 131 A.D.3d 969 (2d Dept. 2015) (reversing lower court order and dismissing suspended police officer's petition for reinstatement and back pay).

Rich was also the principal attorney in multiple land use and zoning cases decided at the appellate level during his tenure as an in-house Town Attorney.

#### Honors & Affiliations

- Listed in:
  - *The Best Lawyers in America*®, Labor Law - Management, 2023-2024
  - *Martindale-Hubbell*®, AV Preeminent Rated
    - *2013 Top Rated Lawyer in Land Use and Zoning*
- New York State Bar Association

- Nassau County Bar Association
- Member, *Hofstra Law Review*

### **Representative Presentations**

- Hot Topics in Labor Negotiations and Collective Bargaining, New York State Government Finance Officers' Association, Inc., October 3, 2017

### **Representative Publications**

- Quoted in "Avoiding Pitfalls, Risks When Employees Work Remotely," *Newsday*, August 16, 2019
- Quoted in "Bridging the Gender Gap," *Long Island Business News*, April 8, 2019
- Quoted in "Will Bonus Affect Her Unemployment Benefits or Will Timing Save Them?," *Newsday*, March 25, 2019