



Kirsten Scheurer Branigan, Esq.

Collaborative Measures for Resolving Conflict



Legal Profile

LEGAL PROFILE

- Owner, Law Office of Kirsten Scheurer Branigan, 2006-2008; 2009-present
- Commissioner, Public Employment Relations Commission; 2007-2009
- Arbitrator, American Arbitration Association; 2008-present
- Mediator, New Jersey Superior Court, Roster of Civil Mediators; 2008-present
- Partner, Chair of the Employment Law Group, McDonald Law Group; 2008-2009
- Assistant County Counsel, Essex County Office of County Counsel, 2006-07
- Part-Time Partner, Fischer Porter & Thomas, PC, 2006
- Associate, Wilentz Goldman & Spitzer, 1995-2006

Ms. Branigan is an experienced employment lawyer, litigator and investigator. She has practiced exclusively in the area of employment law for nearly 15 years and has handled all aspects of employment law, including engaging alternative dispute resolution measures, such as conducting independent investigations. As an employment litigator, Ms. Branigan has handled matters from both the plaintiff and defense perspectives, which has fostered her role as a neutral, investigator, arbitrator and mediator.

Ms. Branigan serves as an Arbitrator on the commercial/employment panel with the American Arbitration Association (“AAA”) and a Mediator on the civil roster of mediators with the New Jersey Superior Court. Ms. Branigan also provides services for private employment arbitrations and mediations in addition to the arbitrations she performs for the AAA and the mediations she performs through the New Jersey Superior Court.

From 2007-2009, Ms. Branigan served as a Commissioner with the Public Employment Relations Commission (“PERC”), a seven-member, quasi-judicial administrative agency charged with administering public sector labor issues, unfair practices, mediation, fact-finding and arbitration. Prior to her owning her own firm, Ms. Branigan worked as an Assistant County Counsel for the Office of the Essex County Counsel handling labor and employment work. Before that, for 10 years, she practiced employment law at Wilentz, Goldman & Spitzer, one of New Jersey’s largest firms. During her career, Ms. Branigan also worked at other smaller private law firms, interned for United States Magistrate Judge Ronald J. Hedges and clerked in the Office of the Corporation Counsel for the City of Jersey City.

Ms. Branigan conducts independent investigations into employment-related complaints. She has extensive experience in performing investigations, such as those involving sexual harassment, gender discrimination, sexual orientation harassment, national origin, racial discrimination, retaliation, disability and FMLA violations. These investigations have been for domestic and international businesses and organizations in various industries such as automotive, pharmaceutical, publishing, communications, non-profit organizations, information technology, manufacturing industries, education, health and fitness, health-care, beauty, and distribution. The businesses range in size from large national companies, small to mid-sized privately-held businesses, Fortune 200 and 500 companies, and public entities. The investigations Ms. Branigan has conducted have included drafting detailed documents summarizing the results of the investigation and testifying regarding same.



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Ms. Branigan co-created and developed an innovative program entitled “HR ON TRIAL -- Legal Preparation of the Human Resources Professional as a Litigation Witness” (“HR on Trial”). HR on Trial is an interactive three-act role-play where weaknesses of the investigative process are acted out. The audience observes an HR Professional investigate a complaint of harassment, the resulting deposition of the HR Professional, followed by the cross examination the HR Professional at trial. HR on Trial has been successfully performed internally for a major New Jersey Retailer Cooperative as part of its in-house Human Resources/Management University. The target audience for this program is those individuals who play any role in the investigation or remediation of harassment and discrimination complaints in the workplace, such as in-house counsel, human resources, loss prevention/risk managers or management personnel. The program can be tailored to fit the client’s business and industry, including, but not limited to, retail, health care, pharmaceutical, publishing, communications, information technology, and manufacturing. HR on Trial has also been performed for a statewide Garden State Conference of the Society of Human Resources Management (“SHRM”) in 2006, the Morris County SHRM program in 2006, as well as privately to business professionals in March and June 2008.

Ms. Branigan has conducted training for numerous private and public sector clients over the years in different settings including auditorium venues, large audiences (100+), as well as smaller groups in roundtable settings and individual one-on-one training to alleged harassers. She has performed workshops for human resources and in-house legal staff on conducting investigations, as well as training for Human Resources personnel and managers on how to address hiring, interviewing, background checks, medical inquiries/exams, leaves of absence, reasonable accommodation requests, performance problems, discipline, and termination. She has conducted training for management, human resources professionals and in-house legal staff on how to handle complaints and investigations into allegations by employees, as well as training for all employees on the prevention of discrimination, retaliation, and harassment, including, sexual harassment.

Ms. Branigan has performed employment audits, including wage and hour audits, compliance reviews, and risk assessments for private and public clients. She has also drafted and reviewed employment policy and procedure manuals and personnel handbooks, including e-mail and internet policies. Ms. Branigan has reviewed and provided guidance on job descriptions, proper classification of employees for overtime exemptions and record-keeping. She has experience in drafting, reviewing, and negotiating employment contracts, severance/separation agreements, executive compensation packages, including other employment-related forms, such as confidentiality agreements; non-disclosure agreements; non-compete agreements; and non-solicitation agreements. Ms. Branigan has counseled private and public sector clients, including Boards of Education with employment issues. Such advice has included advice on leaves of absence, performance, restructuring, reorganizations, and termination issues.

Ms. Branigan’s litigation and negotiations experience includes handling complex multi-party matters and class action lawsuits. She has negotiated and litigated cases from both the plaintiff and defense perspectives. The types of matters have included gender/sex discrimination, sexual harassment, pregnancy discrimination, and care-giver responsibilities discrimination, age, race, religion, national origin, sexual orientation, and disability/handicap discrimination/harassment, wrongful discharge, public policy, retaliation for filing workers’ compensation, Title VII of Civil Rights Act of 1964, Americans with Disabilities Act (ADA), Age Discrimination in Employment Act (ADEA), Older Workers Benefit Protection Act (OWBPA), Occupational Safety and Health (OSHA), Section 1983, Civil Rights, Equal Pay Act, Family and Medical Leave Act (FMLA), Fair Credit Reporting Act (FCRA), New Jersey Family Leave Act (FLA), Law Against Discrimination (LAD), Conscientious Employee Protection Act (CEPA, whistleblower), the New Jersey Minimum Wage Law, the New Jersey Wage and Hour Law, tenure dismissal, invasion of privacy, defamation, breach of employment contracts and retaliation claims. Her litigation experience includes appearing



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on matters filed in New Jersey and federal courts and with New Jersey and federal administrative agencies, such as the Equal Employment Opportunity Commission (EEOC), the Office of Administrative Law (OAL), the New Jersey Department of Labor, Divisions on Wage and Hour Compliance, Unemployment, and the New Jersey Division on Civil Rights (DCR).

As a litigator, she has participated in countless mediations and settlement conferences on employment matters. Ms. Branigan has handled employment arbitrations filed with the AAA, as an advocate from both from the claimant and respondent sides. Prior to becoming a Commissioner with PERC, Ms. Branigan handled labor arbitrations, including, before the Commission.

BAR ADMISSION

- New Jersey, United States District Court, D.N.J.(1995)

EDUCATION & TRAINING

- Rutgers University Law School, (J.D., 1995)
- Rutgers University, (B.A., 1992), magna cum laude
- Saint Dominic Academy, Jersey City (1988)
- Arbitration Fundamentals and Best Practices for New AAA Arbitrators, American Arbitration Association (2008)
- Basic Mediation Training, Office of Dispute Settlement, State of New Jersey (2008)

LEADERSHIP AND AFFILIATIONS

- Barrister, Sidney Reitman American Inn of Court
- Director of Membership, Chair of Nominations, Board of Trustees and Executive Board Member, New Jersey Women Lawyers Association
- President New Jersey Women Lawyers Association (2006-2008)
- Member, American Bar Association (ABA), Labor and Employment Section
- Member, New Jersey Bar Association, Labor and Employment Section
- Judge, ABA Labor and Employment Section Mock Trial Competition
- National Employment Lawyers Association – New Jersey Chapter
- Member, National Association of Women Lawyers
- By-Laws Chair, Executive Women of New Jersey Board of Director (2006-2008)
- Mosaic Sponsor, Alice Paul Institute
- Saint Dominic Academy, Alumnae Committee
- Nutley Chamber of Commerce

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HONORS AND AWARDS

- NJ Biz, Forty Under 40 (2008)
- NJ Biz, Movers and Shakers in Legal Industry (2008)
- Alice Paul Equality Award, Alice Paul Institute (2008)
- Kirsten Scheurer Branigan Presidential Leadership Award, NJWLA (2008)
- Founding Partner, New Jersey Council on Gender Parity in Labor and Education's Women in Law Project (2007)
- Professional Lawyer of Year Award, NJWLA/NJ Commission on Professionalism (2006)

PUBLICATIONS

- Effective Measures in Employment Cases: Have New Jersey courts established a reasonable standard of care?, *New Jersey Law Journal* (April 18, 2011)
- Rule Changes Ease ADR Process for Cross-Border Attorneys, *New Jersey Law Journal* (March 28, 2011)
- Legislature Considers Further Expansion of LAD: New legislative proposals create definitions of what and how we define employment discrimination, *New Jersey Law Journal* (March 17, 2008)
- Out From the Ashes: The Building of the WILL Sisterhood: A Message from Kirsten Scheurer Branigan, NJWLA President, *New Jersey Women Lawyers Platinum Gala Book* (April 9, 2008)
- The Carousel Awaits: A Mother's Day Tribute, published in the *Women Lawyers Journal*, *National Association of Women Lawyers*, author (Spring 2007)
- Importance of Workplace Investigations (Corporate Preventative and Remedial Measures), published in the *New Jersey Lawyer*, K. Branigan, co-author (October 30, 2006)
- Women in the Legal Profession: The Quest to Overcome Barriers to Advancement Continues, published in *Commerce Magazine*, K. Branigan, co-author (Summer 2006)
- The Impact of Sexual Harassment and Sex Discrimination on the Workplace – What Employers and Employees Need to Know, New Jersey Association of Women Business Owners, *Bottomline Newsletter*, K. Branigan, author (June/July 2006)
- What NJ Employees Need to Know About Disability & Age Discrimination-Protected Family & Medical Leaves, *Silk Purse Women Newsletter*, K. Branigan, author (Winter 2006)
- What Women Need to Know About Sexual Harassment in the Workplace, published in *Garden State Woman Magazine*, K. Branigan, author (December 2005/January 2006)
- The High Price of Employment – Expensive Employee Lawsuits – What Employers Need to Know, published by the *Middlesex County Business Journal* (January 2000), in the *North Essex Chamber of Commerce trade publication* (November 2005) and in *Entrepreneur.com*, K. Branigan, author (November 2005)
- The Impact of Sexual Harassment and Sex Discrimination on the Workplace – What Employers and Employees Need to Know, published in a newsletter issued by the Counseling Centers for Human Development, Inc., K. Branigan, author (2004)
- Conducting and Attacking Employment Investigations, published in *New Jersey Law Journal*, K. Branigan, co-author (March, 2003)
- The Employment-At-Will Doctrine: Have its Exceptions Swallowed the Rule? Common Law Limitations Upon an Employer's Control over Employees-At-Will, published by *Practicing Law Institute*, K. Branigan, author (1997-2002)
- *Note-Rutgers Computer and Technology Law Journal*, The Clipper Chip: Cryptography Technology and the Constitution
- The Government's Answer to Encryption "Chips" Away at Constitutional Rights, K. Branigan, 21 RUCTLJ, 263 (1995)



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SEMINARS

- Speaker at Women's Work Career Fair sponsored by the Women's Initiative of Nutley discussing entrepreneurship (March 15, 2011)
- Human Resource Professionals: The 'Key' Witness, Society of Human Resources Management (SHRM) North Jersey-Rockland Chapter (October 21, 2009)
- HR ON TRIAL – Legal Preparation of the Human Resources Professional as a Litigation Witness, Bridgewater, NJ (June 17, 2008)
- HR ON TRIAL – Legal Preparation of the Human Resources Professional as a Litigation Witness, Bridgewater, NJ (March 6, 2008)
- Hot Tips For Handling Disciplinary & Discharge Cases, Panelist, *Essex County Bar Association* (November 8, 2007)
- Legal Issues that Affect Women, presented to the *Union-Essex Legal Professionals Association* (January 2007)
- HR ON TRIAL – Legal Preparation of the Human Resources Professional as a Litigation Witness to a statewide audience of Human Resources professionals at the *Society of Human Resources Management (SHRM) Annual Garden State Conference* in Long Branch, NJ (November 7, 2006)
- Co-presented the "HR ON TRIAL" seminar to the *Morris County SHRM* chapter (October 11, 2006)
- Panelist addressing Gender Equity Issues that affect Women in Business at a program by the *NJ Division on Civil Rights and the Nutley Women's Initiative* (March 2006)
- Speaker at Program for *New Jersey Women Business Owners* addressing legal issues affecting women-owned businesses (March 2006)
- Panelist addressing the legal issues that women face in the workplace at "*Because We are Women – Celebrating Possibilities*," Fairleigh Dickinson University (October 2005)
- Speaker on the legal issues that women face and an update on gender-based verdicts and settlements to the *Central Jersey 3 Women's Network* (2005)
- Lecturer to class of *female entrepreneurs* at *Fairleigh Dickinson University* and to women entrepreneurs through the *Rutgers Small Business Development Center* (2005)
- Speaker to *North Jersey Female Executives' Association* program on employment law issues (1999-2000)
- Frequent lecturer to *Council on Education*, a group focused on providing total solutions to the workforce challenges facing both public and private sector organizations on topics such as New Jersey Family Leave and federal Family and Medical Leave Act issues (2000-2003)
- Speaker on numerous topics such as forms of harassment and discrimination and liability under New Jersey's Law Against Discrimination, sexual harassment, disability (and family/FMLA), leave issues and strategies to minimize employment disputes, including, to the *Association of Trial Lawyers of America (ATLA) Convention, at the NJ State Parking Authority and Environmental Authority Conventions* (1998)
- Speaker for numerous different professional organizations, including, but not limited to, chamber of commerce groups and female executives' associations on sexual harassment, FMLA, disability, pregnancy, and leaves of absence issues
- Frequent speaker for presentations to law school students, college and high school students thinking about attending law school, particularly those enrolled in, or considering admission, to the Minority Student Program at Rutgers Law School-Newark



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PRESS

- Women Lawyers to honor 12 of their own: Gala will celebrate group's return, *Bergen Record* (April 8, 2008) (*Kirsten Scheurer Branigan interviewed*)
- Study: Female Lawyers Shortchanged at the Top, *NJBIZ* (January 21, 2008) (*Kirsten Scheurer Branigan interviewed*)
- Minority and Women Judges, *New Jersey Lawyer* (January 7, 2008) (*Kirsten Scheurer Branigan interviewed*)
- Legal Issues Affecting Women in the Workplace *New Directions for Women (Television Show)*, *Morris County National Association of Women (NOW)*, (November 7, 2007) (*Kirsten Scheurer Branigan interviewed by Rebecca Lubetkin*)
- A Question of Legality: In employment interviews, to answer or not to answer – that is the question, published in the *Herald News* (May 7, 2007) (*Kirsten Scheurer Branigan interviewed*)
- Attorney Advocates for Gender Awareness by Lori Varga, *Rutgers Alumni Relations Newsletter* (February, 2007) (*Kirsten Scheurer Branigan interviewed*)
- Many spouses will dine alone by Heather Haddon, *Herald News* (February 14, 2007) (*Kirsten Scheurer Branigan interviewed*)
- Old-Girl Networks Reach Out to Extend a Hand: More experienced women lawyers work to help newbies advance, by Victoria Hurley-Schubert, *NJ Biz* (January 22, 2007) (*Kirsten Scheurer Branigan interviewed*)
- Women's law leader knows the fight is not over by Gregory C. Washington., *The Star Ledger* (December 21, 2006) (*Kirsten Scheurer Branigan interviewed*)
- Women Lawyers Association Recasts Itself and Its Mission, *New Jersey Law Journal* (November 27, 2006) (*Kirsten Scheurer Branigan interviewed*)
- Association Revitalized, *New Jersey Law Journal*, *New Jersey Lawyer* (November, 2006) (*Kirsten Scheurer Branigan interviewed*)
- Lawyer on a Mission, *New Jersey Lawyer* (May 8, 2006) (*Kirsten Scheurer Branigan interviewed*)
- Women partners (Still few and far between), *New Jersey Lawyer*, May 8, 2006 (*Kirsten Scheurer Branigan interviewed*)
- The Challenges Women Attorneys still Face. Kirsten Scheurer Branigan was featured in the article by Martin C. Daks, *NJ Biz*, May 22, 2006 (*Kirsten Scheurer Branigan interviewed*)
- Diverting Bench Diversity: Zero to tokenism marks many courthouses by Dana E. Sullivan, *Garden State Bar Association* (*Kirsten Scheurer Branigan interviewed*)
- Guest on a *New Jersey television program hosted by Steve Aduato*, on sexual harassment and its legal and practical implications in the workplace (*Kirsten Scheurer Branigan interviewed*)
- Abuse of Power: Women Are Still Dealing with [plaintiff-gender] Employers who "Just Don't Get It" and Their Harassing Comments in the Workplace, Jokes and Sexual Demands *The Home News Tribune* (September 25, 2002) (*Kirsten Scheurer Branigan interviewed*)