

MATTHEW J. BEHR

CO-CHAIR, PUBLIC ENTITY & CIVIL RIGHTS LITIGATION PRACTICE GROUP
SHAREHOLDER



AREAS OF PRACTICE

Public Entity & Civil Rights Litigation
School Leaders' Liability
Employment Law

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ADMISSIONS

New Jersey
1999

EDUCATION

Seton Hall University School of
Law (J.D., 1998)

The Pennsylvania State University
(B.A., 1994)

ASSOCIATIONS & MEMBERSHIPS

New Jersey Bar Association

New Jersey Supreme Court,
District IV Ethics Committee

YEAR JOINED

2003

OVERVIEW

Matthew serves as Co-Chair of the Public Entity and Civil Rights Litigation Practice Group. His practice is concentrated in the defense of public entities in the areas of employment law and municipal liability. As well, he defends municipal and county governments, police departments, police officers and school boards in cases relating to civil rights, sexual harassment, age discrimination, race, ethnic, gender and handicap discrimination, and land use issues. Matthew also has vast experience in cases involving retaliation and whistle blowing under state law, and his practice involves both federal and state courts.

Further, Matthew has considerable experience in representing public entities and private entities in matters involving the Fair Housing Act and American with Disabilities Act in federal and state courts and agencies as well as in the Division on Civil Rights and EEOC. He has represented various entities including Homeowners' Associations in reasonable accommodation and disability discrimination cases and has recently obtained a summary judgment motion on behalf of a HOA involving the issue of emotional support animals.

Clients rely on Matthew to handle their most complex and high-exposure litigation. He has successfully settled numerous cases well below the initial demand, including a high-profile case involving allegations of bullying in a school district that received national attention. He understands the complexity of these cases and how they affect not only the clients, but the carriers as well, from both a litigation and reputational perspective.

Matthew was recently appointed to the District IV Ethics Committee by the New Jersey Supreme Court and will serve a four-year term from September 1, 2024 to August 31, 2028.

Matthew received his B.A. in Political Science from The Pennsylvania State University. He earned his *juris doctor* from Seton Hall School of Law in 1998. Following law school, Matthew served as a judicial law clerk for the Honorable George L. Seltzer in Atlantic City.

Matthew joined Marshall Dennehey in 2003, bringing with him considerable employment law experience.

THOUGHT LEADERSHIP

Court Affirms Dismissal of Lawsuit Over City Pothole Fall, Citing Lack of Evidence

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Public Entity & Civil Rights Litigation

April 1, 2025

The plaintiff tripped and fell in a pothole in the City of Newark. There were no complaints reported about this pothole prior to this incident. Case Law Alerts, 2nd Quarter, April

NJ Appellate Division Expands OPRA Obligations: Custodians Must Disclose Non-Exempt Information to Avoid Attorney's Fees

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Public Entity & Civil Rights Litigation

March 11, 2025

The New Jersey Appellate Division affirmed the decision of the lower court in awarding attorney's fees pursuant to the Open Public Records Act (OPRA) for a failure to respond to an information request, although a specific document request was not. Legal Updates for New Jersey Public Entity & Civil Rights

Just Because You Expunge a Record Does Not Mean Internal Affairs Records Are Not Subject to an Open Public Records Act Request

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December 1, 2024

Key Points: Defense Digest, Vol. 30, No.

OPRA Does Not Permit Waivers for Inability to Pay

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Public Entity & Civil Rights Litigation

November 13, 2024

In *Thorpe v. Kleinman*, Docket No. A-3391-22 (App. Div. Nov. 1, 2024), the plaintiff sought video footage from the Freehold Township Police Department, the defendant in the case, in regard to a traffic obstruction charge. Legal Updates for New Jersey Public Entity & Civil Rights

Impounding a Vehicle Falls under Community Caretaking Exception to Fourth Amendment's Warrant Requirement and Is Not a Taking under Fifth Amendment.

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Public Entity & Civil Rights Litigation

October 1, 2024

After township police officers conducted a traffic stop and found the driver did not have a license, registration or insurance, they had the car impounded. Case Law Alerts, 4th Quarter, October

PUBLISHED WORKS

"Just Because You Expunge a Record Does Not Mean Internal Affairs Records Are Not Subject to an Open Public Records Act Request," *Defense Digest*, Vol. 30, No. 4, December 2024

"Police Officers Have a Ministerial Duty to Render Assistance to an Intoxicated Person Involved in a Motor Vehicle Accident and Are Not Immune Under the New Jersey Tort Claims Act," *Defense Digest*, Vol. 26, No. 2, June 2020

Legal Updates for New Jersey Public Entity & Civil Rights, regular contributor, 2018-present

RESULTS

Summary Judgment Obtained in Disability Discrimination Case

Public Entity & Civil Rights Litigation

March 14, 2025

We successfully obtained summary judgment for a county in a lawsuit alleging disability discrimination and failure to accommodate under the New Jersey Law Against Discrimination. After being sent for a fitness-for-duty examination, a medical professional determined that the plaintiff was not fit for duty, leading to his termination. The court ruled in favor of the county, granting summary judgment on all claims and dismissing the case with prejudice.

Favorable Decision Obtained from the Court of Appeals for the Third Circuit

Public Entity & Civil Rights Litigation

Appellate Advocacy & Post-Trial Practice

January 9, 2025

We received a favorable decision from the Court of Appeals for the Third Circuit in a First Amendment case. The circuit court affirmed the District of New Jersey's denial of a preliminary injunction in which the plaintiff claimed that federal and local officials violated her First Amendment rights through censorship and retaliation after she posted comments on Facebook.

Summary Judgment Secured in Favor of a New Jersey Homeowners Association

Non-Profit D&O

July 26, 2024

We won summary judgment for a homeowners association. Our client filed a lawsuit to enforce the Covenant of Restrictions banning barnyard animals and claiming that the homeowners failed to obtain necessary approvals to build a coop and run for six chickens. The homeowners claimed the six chickens were emotional support animals, pursuant to the Fair Housing Act (FHA) and New Jersey Law Against Discrimination (NJLAD). The court held that the chickens are not emotional support animals, pursuant to both FHA and NJLAD, and granted summary judgment.

Client dismissed from litigation involving high school wrestler's claim of discrimination based on his hair style.

Public Entity & Civil Rights Litigation

March 24, 2023

We were successful in obtaining a dismissal of our client, a state interscholastic athletic association, by way of a motion to dismiss for failure to state a claim. The plaintiff was a high school wrestler who was not permitted to wrestle due to an alleged violation of the rules concerning hair style and covering requirements. The wrestler had his hair cut by the athletic trainer in order to wrestle. This incident was recorded by a local reporter and went viral.

SIGNIFICANT REPRESENTATIVE MATTERS

Summary judgment granted in case where employee of a Board of Education brought whistle blowing allegations.

Summary judgment granted in case against general contractor where damages were well in excess of \$1 million by showing the contractor had no involvement in the alleged deficient work site.

Summary judgment granted in case where former employee sued police department for discrimination and alleged whistle blowing activities.

Summary judgment granted in case where plaintiff alleged police officers used excessive force where multiple officers shot him numerous times.

Summary judgment granted in case where former employee of Board of Education brought allegations of violations his civil rights when the Board of Education reported to police allegations of improper use of his Board-issued computer.