

**MARK GASTON PEARCE, ESQ.**

**ARBITRATOR – MEDIATOR**

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***Admission to Practice of  
Law***

**New York State, Second Department, 1979**  
**United States Federal District Court, Western District, New York, 1980**  
**United States Supreme Court, 2012**

***Professional  
Employment***

**ARBITRATOR/ MEDIATOR, FMCS (Labor and federal public sector labor certified) ; AAA (Labor Panel Certified), Member of the National Academy of Arbitrators**  
**Self-employed -January 2019 to present**

**FEDERAL SERVICE IMPASSE PANEL OF THE FEDERAL LABOR RELATIONS AUTHORITY**  
**Panel Member – September 2021 to present**

**GEORGETOWN UNIVERSITY LAW CENTER 600 New Jersey Avenue, NW Washington, DC 20001**  
**Visiting Professor – December 2020 to present**  
**Distinguished Lecturer – May 2019 to December 2020**

**GEORGETOWN UNIVERSITY LAW CENTER; 600 New Jersey Avenue, NW Washington, DC 20001**  
**Executive Director Workers' Rights Institute – May 2019 to present**

**CORNELL UNIVERSITY SCHOOL OF INDUSTRIAL AND LABOR RELATIONS Ives Hall, Cornell University, Ithaca, New York 14850**  
**Visiting Senior Scholar and Lecturer – March 2019 to May 2019**

**NATIONAL LABOR RELATIONS BOARD 1015 Half Street SE, Washington, DC 20570**  
**Board Member – April 2010 to August 27, 2018.** Appointed by The President of the United States and confirmed by the Senate, 2010 and 2013.  
**Chairman of the National Labor Relations Board – August 2011- December 31, 2016.** Served by designation of the President of the United States in 2011 and 2013.

**CREIGHTON, PEARCE, JOHNSEN & GIROUX 560 Ellicott Square Building, 295 Main Street, Buffalo, New York 14202**

**Partner/ co-founder -** Practicing Union and worker side labor and employment law before State and Federal Courts and Agencies including N.Y.S. Public Employment Relations Board, N.Y.S. Division of Human Rights, Equal Employment Opportunity Commission, U.S. Department of Labor and the National Labor Relations Board. January 2002 to 2010.

**ADR PROGRAM, US DISTRICT COURT, WESTERN DISTRICT OF NEW YORK, 2 Niagara Square, Buffalo, NY 14202**

**Certified Mediator –** Mediated pretrial labor and employment cases filed with US District Court – 2008 to 2010

**NEW YORK STATE INDUSTRIAL BOARD OF APPEALS Empire State Plaza, Agency Building #2 20<sup>th</sup> Floor Albany, New York 12223 (518)474-4785**

**Board Member –** Appointed by Governor and confirmed by NYS Senate January 2008.

**CORNELL UNIVERSITY SCHOOL OF INDUSTRIAL LABOR RELATIONS EXTENSION 237 Main Street, Suite 1200 Buffalo, NY 14203**

**Adjunct Faculty –** Teaching several courses in the labor studies program including *Privacy in the Workplace* and *Union Administration* – 2001 to 2008

Mark Gaston Pearce, Esq.

**LIPSITZ, GREEN, FAHRINGER, ROLL, SALISBURY & CAMBRIA LLP** 42 Delaware Avenue, Suite 300, Buffalo, New York 14202

**Partner** - Practicing Union and worker side labor and employment law November 1994 to January 2002.

**NATIONAL LABOR RELATIONS BOARD – Region 3** Buffalo, New York 14202  
**Attorney and District Trial Specialist** – September 1979 to November 1994

**Experience**

*Over 40 years' experience in labor and employment law. Arbitrator (AAA, FMCS) labor – private sector, public sector, and federal public sector. Permanent panel arbitrator: United States Postal Service and National Rural Letter Carriers; City Bar Justice Center and Local 153, Office and Professional Employees International Union. Concurrently faculty and staff at Georgetown University Law Center. Taught labor law courses at Georgetown Law and Cornell University ILR school. Engaged in the enforcement of labor and employment law and the development of policy for over two decades with the National Labor Relations Board (NLRB) as a district trial specialist and as a Board Member and Chairman of the NLRB for two terms. As a district trial specialist, duties and assignments included litigation, conducting hearings as a hearing officer, and drafting briefs and regional director decisions. As Chairman of the NLRB, duties and responsibilities included managing an agency of 1600 employees, which included personnel decisions, while deciding and preparing hundreds of major cases that set labor policy for the nation. Practiced for 15 years as a labor and employment lawyer representing individuals and unions before state and federal agencies and courts. Litigated unfair labor practice cases before the NLRB involving breach of duties of fair representation, bad faith bargaining, discriminatory discharge, discipline and retaliation and contract repudiation. Represented parties in numerous arbitrations involving all of the above issues as well as jurisdictional disputes. Served as attorney advisor and decision writer for intraunion disciplinary judicial board. Served as certified mediator, mediating employment cases for the US District Court of the Western District of New York. Served as a governor appointed board member of the New York State Industrial Board of Appeals, presiding over hearings appealing wage and hour decisions of the NYS Commissioner of Labor.*

**Education**

**STATE UNIVERSITY OF NEW YORK AT BUFFALO LAW SCHOOL** Amherst, New York 14260

J.D., June 1978

**CORNELL UNIVERSITY, Ithaca, New York 14850, B.A., Government, June 1975**

**Memberships**

THE NATIONAL ACADEMY OF ARBITRATORS, Member; THE COLLEGE OF LABOR AND EMPLOYMENT LAWYERS, INC. Fellow; AMERICAN BAR FOUNDATION, Fellow; AMERICAN BAR ASSOCIATION Labor and Employment Law Section; Equal Opportunity in the Legal Profession Committee - 2009 Union & Employee Co-Chair; LAWYERS COORDINATING COMMITTEE AFL- CIO, Board of Directors – 2000 to 2004; COALITION OF ECONOMIC JUSTICE; Board of Directors- 2005 to 2009; WESTERN NEW YORK WORKERS RIGHTS BOARD 2006 to 2009; BAR ASSOCIATION OF ERIE COUNTY, Labor Law Committee 1992 – 2009; ERIE COUNTY BAR FOUNDATION, Board of Directors – 2005 – 2009; LABOR AND EMPLOYMENT RESEARCH ASSOCIATION Advisory Board - 1998 to 2009; VOLUNTEER LAWYERS PROJECT, President 2000 to 2002; LEADERSHIP BUFFALO, Class of 2000; EPISCOPAL DIOCESAN ECCLESIASTICAL COURT – CHAIR 2002 to 2009; EPISCOPAL DIOCESAN COMMISSION AGAINST RACISM Co-chair - 1992 to 1997; HOUSING OPPORTUNITIES MADE EQUAL President - 1988 to 1989; NEW YORK STATE BAR ASSOCIATION LABOR AND EMPLOYMENT LAW SECTION Executive board member and committee chair - 1995 to 1998; BURCHFIELD PENNY ARTS MUSEUM - Council Member 2005 to 2010; BUFFALO ARTS STUDIO - Board Member 2005 to 2010; MINORITY BAR ASSOCIATION OF WESTERN NEW YORK, 24 year member; President - 1992 to 1994

**Commissions & Committees**

THE COLLEGE OF LABOR AND EMPLOYMENT LAWYERS Board of Governors, January 2022 to present; WORKERS RIGHTS CONSORTIUM Board of Directors, February 2022 to present; NYS GOVERNOR'S 705 COMMISSION ON INCREASING DIVERSITY IN STATE GOVERNMENT WORKFORCE - Governor appointed member 2007- 2010; COMMITTEE ON CHARACTER AND FITNESS FOR THE NEW YORK - State Supreme Court Appellate Division Fourth Department, Eight Judicial District 2002 - 2010  
CHIEF JUDGE JUDITH S. KAYE COMMISSION TO EXAMIN SMALL AND SOLO PRACTICES Office of Court Administration, Unified Court System State of New York 2004 -2005

**Select  
Publications  
And Speaking  
Engagements**

National Academy of Arbitrators Annual Meeting, Marina Del Ray California, October 1, 2021, *The National Labor Relations Board: Expectations and Opportunities*, Plenary Keynote speaker

ABA L&E Committee on the Developing Labor Law, Midwinter Meeting, March 1, 2021, *Scream: The New Standard for Outbursts in the Course of Otherwise Protected Concerted Activity* Speaker, March 1, 2021;

*The New NLRB Standard for Outbursts during Protected Concerted Activity: A Needed Fix or an Overreach*, by Mark Gaston Pearce prepared for ABA L&E Committee on the Developing Labor Law, Midwinter Meeting, February 2021;

International Institute for Conflict Prevention and Resolution (CPR) (Panel Speaker- Webinar *Labor & Employment ADR Under the Biden Administration*), February 24, 2021

*Rulemaking Isn't the Answer to NLRB Policy Oscillation*, Law360 Journal, Employment Authority, February 3, 2021 (with Amanda Jaret).

ABA Section of Labor and Employment Law ADR in Labor and Employment Law Committee Midwinter Meeting January 24-26, 2020, Playa del Carmen, Mexico (Speaker - *The Trump National Labor Relations Board's Impact on Labor Arbitration*)

College of Labor and Employment Law Webinar Series, *Federal Agency Updates: EEOC, OFCCP, DOL and NLRB Part 2*", May 19, 2021, Panel Moderator.

College of Labor and Employment Law Webinar Series, *Virtual Labor and Employment Arbitration: The Good, The Bad and The Ugly*, July 28, 2020, Panel Moderator

College of Labor and Employment Law Webinar Series, September 29, 2020- *In the COVID-19 Trenches: Navigating Privacy, Concerted Activity, Bargaining, and Employee Gag Issues for the Labor Law Practice* - Panel Speaker

SEIU-AFSCME Attorney Conference, (Panel Speaker – *NLRB: Worker Choice and Worker Voice* November 2019);

American Bar Association Section of Labor and Employment Law Webinar *NLRB Labor Landscape: Peaks and Valleys or the Abyss?* November 21, 2019

ABA Procedures and Practices Midwinter Meeting, (Speaker - *Effective Briefing before the NLRB*) 2019;

National Bar Association, 93rd Annual Meeting (Speaker: *Recent Decisions at the NLRB and their Impact August 2018*;

"United Parcel Service and the Standards for Assessing Arbitrator Clarity Regarding the Deferred Unfair Labor Practice," New Jersey Bar Labor and Employment Law Journal, Vol. 41, No. 3, April 2020 New Jersey Bar Labor and Employment Law Journal, Vol. 41, No. 3, April 2020 by Dean Burrell, and Mark Gaston Pearce

Labor and Employment Research Association, New Jersey Chapter, Speaker, *The December 2017 decisions and the Aftermath*, November 2018;

American Bar Association Annual Meeting 2011 - 2018 (panel speaker *Meet the NLRB*)

ABA Developing Labor Law and Procedures and Practices Midwinter Meetings, 2011-2018 (Panel speaker, Board Member views on new cases);

"It Gets Hot in the Kitchen: New Challenges for the NLRB" by Mark Gaston Pearce; *The Challenge for Collective Bargaining*, Proceedings of the New York University 65th Annual Conference on Labor, Michael Z Green, editor