

Services & Industries

Employment and Labor

OVERVIEW

Many federal, state and local laws impact the modern workplace. These laws are multiplying and evolving at an incredible pace. Day Pitney's Labor and Employment practice group has experienced attorneys who guide employers through this legal maze. Our goal is to limit our clients' legal risk and to achieve practical and cost-efficient solutions for all workplace issues. We are not just "outside counsel." We team with our clients to understand the nuances of their unique workplace and to craft advice for the best possible outcome. In short, we view ourselves as our clients' business partners.

Day Pitney offers creative pricing options, advanced technology and an experienced staff of attorneys across multiple states. We are proud to enjoy long-term relationships with a great many clients.

Some examples of the work that we do:

- Representing companies of any size in all aspects of employment litigation, whether single-plaintiff or class/collective actions, in federal and state courts in cases involving diverse claims, including but not limited to wage and hour laws, all forms of harassment, discrimination, retaliation, whistleblowing, and benefit claims under the Employment Retirement Income Security Act
- Representing employers in charges, investigations and audits in federal and state agencies, including the Equal Employment Opportunity Commission and corresponding state agencies, federal and state departments of labor, the National Labor Relations Board (NLRB) and the Occupational Safety and Health Administration (OSHA)
- Conducting customized training on all employment-related topics, including harassment and discrimination, wage and hour compliance, union avoidance, prevailing wage, project labor agreements, and other compliance topics, including providing forward-thinking advice on all aspects of COVID-19 and the various federal, state and local laws that have emerged due to this pandemic
- Providing our clients with compliance strategies for federal and state wage and hour laws, including but not limited to employee classification and the use of independent contractors
- Conducting investigations of employee complaints of harassment and discrimination, whistleblowing, and other employment-related issues

- Providing guidance on employers' obligation to provide accommodations for disabilities, pregnancy or religion
- Developing strategies and compliance initiatives for sexual, racial and other forms of harassment
- Drafting compliant drug-free workplace policies, including the evolution of legal marijuana use
- Protecting employers from unfair competition and misappropriation of trade secrets and confidential information by drafting noncompete, nonsolicitation, nondisclosure, assignment of inventions and other employment-related agreements and by counseling and litigating claims relating to enforcement of such agreements
- Devising processes for onboarding of employees, including background checks, drug testing, wage notices and other required documentation
- Drafting and customizing employee handbook policies to comply with the different laws of each state or the use of staffing agencies
- Effectuating business transactions such as mergers and acquisitions, transactional due diligence, reductions in force, and facility relocations and closings as they relate to employees and labor union issues
- Advising on union avoidance, including during union election and decertification campaigns
- Defending against unfair labor practice charges in front of the NLRB
- Providing day-to-day legal advice on working with a unionized workforce
- Serving as lead negotiator and/or legal advisor during collective bargaining negotiations
- Handling discipline and contract interpretation labor arbitrations
- Counseling on OSHA compliance, and defending against unsafe workplace claims
- Providing guidance and policies relating to social media issues, including what constitutes employees' appropriate use and safeguarding businesses' confidential and proprietary information

The above non-exhaustive list is a sampling of the types of matters we handle on an ongoing basis. We encourage clients and those interested in becoming clients to call us with any questions about any employment or labor matter.

EXPERIENCE

REPRESENTATIVE MATTERS

- Represented a CEO and two senior sales executives in a class action lawsuit filed on behalf of a nationwide class of former account representatives against claims of age discrimination and wrongful denial of severance under ERISA; aggressively pursued motion practice and obtained dismissal of the claims against the three executives, a partial dismissal of the ERISA claim, and limited the class pursuing the age discrimination claim to sales representatives who had worked in New Jersey (resulting in the withdrawal of the class claims for age discrimination because of the absence of numerosity), as well as defeated the named plaintiff's motion for class certification of the ERISA claim, thereby terminating all claims on behalf of the nationwide class action and leaving only the claims of the single named plaintiff for trial
- Represented a Fortune 500 company in connection with multiple claims made by employees of a recently divested business unit relating to the nonvesting of equity grants and the terms of incentive bonus retention agreements; following extensive investigation of the underlying facts and an aggressive approach in pre-arbitration proceedings, successfully resolved all claims for the client
- Conducted due diligence for union, employment and benefit issues for equity funds and companies that acquired businesses in stock or asset purchases and mergers involving union-represented employees; ensured that our clients' post-closing incurred no hidden costs or impediments to operating and achieving value from these complex and challenging transactions
- Served as chief spokesperson in union negotiations on behalf of a luxury automobile manufacturer, a leading aircraft manufacturer, a large chemical company and a major printing company; achieved significant client objectives, including reforming or replacing onerous and expensive medical programs, and enlarging management rights to achieve needed business change and cost containment
- Represented a large international transportation company against disability discrimination and retaliation claims; overcame unfavorable timing and the termination of a long-term employee due to an undisputed on-the-job injury and obtained a unanimous jury verdict on all claims in our client's favor

INSIGHTS

New Jersey Takes Aim at Restrictive Covenants

August 18, 2022

Chair of Day Pitney's Employment and Labor Practice Heather Brochin and Senior Associate Jim Leva authored an article titled, "New Jersey Takes Aim at Restrictive Covenants," for the *New Jersey Law Journal's* Employment Law Special Section.

Employment Matters – Travel Tuesdays: Doing Business in Connecticut

August 9, 2022

Day Pitney Employment and Labor Attorney James Leva was a guest speaker on the Employment

Law Alliance's Employment Matters – Travel Tuesdays Podcast, where he discussed need-to-know items for doing business in Connecticut, including the hottest industries and employment laws regulating CT businesses.

“Part II: The Aftermath of a Crisis,” ELA

August 24, 2022

On August 24, Day Pitney Employment and Labor Attorney James Leva will be a panelist at the webinar, "Part II: The Aftermath of a Crisis," hosted by the Employment Law Alliance.

When Less Isn't More: An Overview of East Bay's Impact on Employee Misclassification

August 8, 2022

Day Pitney Alert

EEOC'S Updated COVID-19 Guidance Places Additional Restrictions on Employers

July 20, 2022

Day Pitney Alert

NEWS

No, Employees Aren't Legally Required to Report Positive COVID-19 Tests to Employers

July 22, 2022

Day Pitney Advisory "HIPAA Considerations When An Employee Tests Positive for COVID-19," was featured on a syndicated *Verify This* TV segment.

After Hours: Gonzalez Receives Executive Women of NJ Award

June 29, 2022

Day Pitney Employment and Labor Partner Rachel Gonzalez was featured in the *New Jersey Law Journal's* After Hours column for being a recipient of the Executive Women of New Jersey *Salute to the Policy Makers* Award.

Chambers USA 2022 Ranks 34 Day Pitney Attorneys and 13 Practices

June 1, 2022

Day Pitney Press Release

Will CT Employers Embrace a 4-Day Workweek Amid Tight Labor Market? Jury is Still Out

May 23, 2022

Employment and Labor Partner Glenn Dowd was quoted in the article, "Will CT Employers Embrace a 4-Day Workweek Amid Tight Labor Market? Jury is Still Out," in the *Hartford Business Journal*.

Diverse Lawyers Network: Industry News

May 6, 2022

Day Pitney Employment and Labor Partner Rachel Gonzalez was featured in the Diverse Lawyers Network newsletter for being a recipient of the Executive Women of New Jersey *Salute to the Policy Makers Award*.

CONTACTS



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