

PRACTICE

Counseling, Compliance & Training

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OVERVIEW

COUNSELING, COMPLIANCE & TRAINING

There is no longer a typical workplace—mobile accessibility, flexible work schedules and a global, round-the-clock mentality continue to shape how employers manage their workflow and workforce.

Workplace legal issues often arise suddenly and call for an immediate response. When clients seek our advice on employee terminations, workplace violence and other urgent matters, our attorneys are accessible and responsive.

We routinely provide counseling and training to all of our clients on the entire spectrum of employment issues, including hiring practices, drug testing, reasonable accommodations for disabilities, interpretation of the leave statutes, and approaches to employee discipline. We also create and revise employment handbooks to suit each of our clients' unique profiles and goals.

Our team has vast experience in providing time sensitive, practical and efficient advice on a myriad of workplace issues, such as sexual harassment, discharge, discrimination under the various federal and state anti-discrimination statutes, fraud, whistle-blowing, unfair competition, protection of confidential information and defamation, so that these issues do not mushroom into expensive and burdensome litigation. We also provide due diligence on employment issues pertaining to mergers and acquisitions.

By taking the time to understand how our clients' workplaces function, we can assist them with developing employment practices that strengthen their business goals.

Chambers USA recognizes our Labor & Employment practice among the most notable in Massachusetts.

How we can help

- *Workplace safety:* We assist clients in defusing potentially violent workplace situations. Workplace safety problems, whether from dangerous equipment, environmental issues or workplace violence, seem to be on almost every evening newscast. We have a dedicated team of legal experts who guide

our clients through the maze of regulatory compliance standards, inspections by the Occupational Safety and Health Administration (“OSHA”) and successfully resolve any citations that may be issued for alleged violations of the law.

- *Reductions in force:* When our clients are forced to design and implement downsizing programs, we analyze workforce data to insure that our clients comply with the Worker Adjustment and Retraining Notification Act (WARN) and the Older Workers Benefit Protection Act.
- *Affirmative action:* We help our government contractor clients prepare affirmative action plans and represent them in audits before the Office of Federal Contract Compliance Programs (OFCCP). We also advise academic and other clients on a range of affirmative action issues.
- *Policies and handbooks:* Well-developed workplace policies can set the tone for how a business operates and evolves. We draft, review, and help our clients implement hiring procedures, personnel policies and employee handbooks. In addition, we design codes of conduct and required Sarbanes-Oxley whistleblower mechanisms both in the U.S. and other countries.
- *Training:* We regularly provide management education and preventative programs delivered in our clients’ workplaces on a range of topics, such as discrimination, diversity and teamwork, reasonable accommodation, how to conduct effective internal investigations and how to obviate employment claims before they mature into litigation. We also train supervisory and non-supervisory personnel in all areas of compliance, including prevention of unlawful harassment and equal employment opportunity claims.

EXPERIENCE

An employer addresses unfavorable audit findings

A Massachusetts manufacturer was audited for potential wage and hour and overtime violations by the Massachusetts Attorney General. We reviewed all of the wage and hour records, and then interpreted them and presented a clear and compelling response to the Attorney General. The employer paid its employees through a combination of cash and checks according to a complex, three-tier system of overtime for different classes of employees.

A planned transition of key cabinet executives

The new president of a university needed help developing and implementing a new cabinet organization. Together with the client, we put a transition plan in place that made the changes to the membership and limited legal exposure and other disruptions. Our client met with the current cabinet one-on-one, taking each member’s interests into account. Based on the results of those meetings we tailored individual strategies and, over the course of about a year, the cabinet changes were successfully made.

An alternative to litigation in a non-competition case

To its chagrin, our client – a construction design/build company – received a cease and desist letter after hiring a competitor’s former employee. We investigated, reviewing the individual’s non-compete clause and developing an argument why it was unenforceable. We negotiated an agreement with the competing company that restricted the new employee from certain, limited projects for a short period of time, which helped the client to devote its full energy toward driving growth in its business rather than getting bogged down in litigation.

OTHER EXPERIENCE

- Reviewed and revised employee handbooks and policies to stay abreast with latest legal developments and cutting-edge trends, such as social media use by employees, medical and

recreational marijuana use and new state leave laws.

- Train supervisors on new policies and laws.
- Major regional construction company in connection with parallel criminal and civil investigations into alleged OSHA violations.
- Conducted a high-level internal investigation involving allegations of gender discrimination brought forward by a high-level executive in a large hospital system, resulting in an amicable parting with no claims asserted against the hospital system.
- Counseled banking client through complex FMLA leave/ADA accommodation questions for an employee on an extended leave of absence.
- Negotiated severance agreement for high-level executive at a financial services company, using the leverage of the individual's allegations of company wrongdoing to secure additional benefits while counseling the client about the time, expense and uncertain outcome of litigation to maintain expectations.