SpencerFane®

Labor and Employment

Preventing employee issues so employers can focus on business goals.

Whether we are training employees across an entire company, helping companies address human resource structure and compliance issues, or providing critical guidance as demands increase on HR and supervisory staff, our goal is to keep clients above the fray, anticipate the unexpected, and enable business leaders to focus on running their business successfully.

Overview

Minimizing the time and resources spent on legal matters

Helping executives and managers identify risks and equipping them with the tools to prevent employment disputes and avoid legal claims, the Spencer Fane Labor and Employment team enables employers to nurture resilient and productive workforces and to engage and retain top talent.

Steering clients away from obstacles and toward success. We know what employment issues keep business leaders up at night, and our team has the breadth and depth of experience to help employers of all sizes in all areas of labor and employment law. Because we aim to reduce challenges, we prioritize training – to implement best practices and build understanding of compliance needs related to FMLA, ADA, and FLSA. We also assist clients who work with a unionized labor force and union agreements.

Industries. Our attorneys have extensive experience across many industries, including transportation, manufacturing, health care, energy, financial services, real estate, education, and restaurants, among others. This experience gives us the knowledge and context necessary to understand both a client's business and the environment in which it operates, and to focus on a client's unique circumstances and needs.

Full-service approach. Our professionals not only aim to provide clients with full-service coverage of their employment law issues but also are attentive to the potential of adding value or identifying risks in other areas. In turn, the team is known for drawing upon the experience of colleagues in other areas ranging from employee benefits to tax to intellectual property among other industry specific teams. We know the risks our clients face, and we help them to implement compliant and legally sound strategies that protect their interests.

Areas of Focus

Employment Advice, Counsel, and Training

Proactive, strategic, and day-to-day counsel for business owners, in-house counsel, and human resources representatives. Spencer Fane Labor and Employment lawyers have extensive experience advising employers on both long-term strategies and the day-to-day issues that foster healthy workplaces and productive relationships with employees.

Members of our Labor and Employment team:

- **Draft and review employment agreements**.
- **Help develop effective policies, procedures, and employee handbooks**.
- **Enable employers to understand the litigation scenarios they can face with severance agreements and terminations**, including avoiding costly claims associated with breach of contract, wrongful termination, and discrimination.
- **Help protect the company from claims of unfair competition**, while attracting and retaining top talent.
- **Provide training to managers and supervisors**, teaching them how to comply with employment laws and how to better communicate in the workplace.
- **Conduct training** for employees of all levels at an organization to inform them of their rights related to FMLA and ADA.
- **Help employers to incentivize employees to stay on the job** when layoffs are looming.

Employment Litigation, Arbitration, and ADR

Keeping employers out of the courtroom when possible, litigating aggressively when necessary. Spencer Fane attorneys work to prevent the potential for lawsuits and satisfactorily resolve matters when claims are made. But when litigation is essential, our Employment Litigation team advocates tirelessly for the interests of clients.

Our Employment Litigation team:

- **Defends clients in employment discrimination lawsuits**, providing advice from the start of an investigation through trial and appeal as well as dealing with possible civil enforcement actions.
- **Prosecutes and defends claims related to breach of restrictive covenants**, including misappropriation of trade secrets, unfair competition, employee raiding, breach of fiduciary duty, tortious interference with business relationships, and related claims.
- **Defends employers against complaints brought by government agencies**, including claims of civil rights violations and other matters.

We work to resolve cases in the manner that best suits the client's objectives – at trial, through alternative dispute resolution methods, or with a negotiated solution.

Labor Relations

Addressing the varied and complex issues in unionized workplaces. With the founding of our firm rooted in this area, the Spencer Fane Labor Relations team brings our long history and deep experience to employers, guiding them in negotiations, arbitrations, mediations, grievances, and other common legal issues which arise in dealing with unionized workforces.

Our Labor Relations team:

- **Assists clients in responding to organizational activity**.

- **Advises employers in union election campaigns** with units ranging in size from a handful of employees to thousands.
- **Represents management in contract grievance and arbitration proceedings**. We maintain a log of experience with individual labor arbitrators to assist our clients in selecting from the panels we are provided.
- **Represents employers before the NLRB**, including matters involving jurisdictional disputes, unfair labor practice charges against employers and unions, and representative cases involving major bargaining units.
- **Represents multiemployer bargaining groups**, advising on collective bargaining agreement provisions; compliance with federal, state, and local laws governing employment; contract administration; and dispute resolution.
- **Advises on facility closures**, including communications to employees, customers, and the public.

Restrictive Covenants and Trade Secrets

Safeguarding the ability to compete fairly. Competition defines today's marketplace and, as companies actively seek to recruit each other's employees and win over each other's customers, conflicts are inevitable.

Our Restrictive Covenants and Trade Secrets team:

- **Drafts and crafts restrictive covenants**, including noncompetition, nonsolicitation, and confidentiality agreements.
- **Advises employers on the separation process (including exit interviews)** for departing employees and independent contractors.
- **Counsels employers on hiring personnel from competitors**, including onboarding processes and evaluating and mitigating hiring risks.
- **Prosecutes and defends claims related to breach of restrictive covenants**, including misappropriation of trade secrets, unfair competition, employee raiding, breach of fiduciary duty, tortious interference with business relationships, and related claims.

Timing is often crucial in responding to competitive threats and our team, with accomplished trial lawyers at the helm, has extensive experience in responding quickly to such threats.

Wage and Hour / Complex Litigation

Minimizing disruptive and reputationally damaging legal actions related to employment practices. Spencer Fane attorneys assist employers of all sizes with wage and hour matters. Understanding that no company wants to be embroiled in costly disputes, our lawyers:

- **Provide advice on classifying and compensating workers** in ways that are consistent with the law.
- **Help employers avoid significant exposure through proactive self-audits** of policies and procedures related to pay and timekeeping.
- **Work to eliminate the risk of multiple-employee lawsuits**, through carefully designed arbitration programs.
- **Defend employers in individual, class, and collective actions** alleging wage and hour violations under the Fair Labor Standards Act (FLSA) or similar state laws.
- **Help companies navigate governmental investigations from state and federal agencies**, including demonstrating legal compliance and minimizing the risk of enforcement actions and penalties.

Workplace Safeguards

Compliance with safety and privacy regulations. Spencer Fane advises employers on maintaining safe workplaces and keeping employee data secure, including best practices for compliance with government regulations related to both data privacy and workplace safety.

Our Labor and Employment team helps employers:

- **Handle and maintain employee data** in compliance with government regulations.
- **Maintain safe workplaces and ensure compliance** with workplace safety standards.
- **Respond to OSHA investigations** and related health and safety audits.
- **Defend against OSHA whistleblower allegations** and related complaints regarding workplace safety and claims of unsafe practices.
- **Address catastrophic workplace incidents** (e.g., explosions, fires, chemical releases involving worker injuries and fatalities), including crisis management and incident investigations.
- **Navigate government investigations and enforcement actions**, including both civil and criminal cases.