

## REPRESENTATIVE ENGAGEMENTS - *EMPLOYMENT LAW*

### Federal and State Court Litigation

- Secured dismissal of age discrimination claim at close of plaintiff's case and jury verdict in favor of employer on retaliation claim filed in U.S. District Court for the Western District of Tennessee
- Successfully defended employer in jury trials on Title VII retaliation claims filed in U.S. District Court for the Western District of Tennessee; two trials resulted in deadlocked juries and no liability for employer
- Secured summary judgment in favor of nursing home and home's administrator on all claims included in ten-count complaint filed in U.S. District Court for the Northern District of Illinois, alleging race and color discrimination, hostile environment harassment, and retaliation under Title VII and Section 1981, and intentional infliction of emotional distress and defamation under Illinois common law
- Secured summary judgment in favor of employer on FMLA interference and retaliation claims filed in U.S. District Court for the District of New Mexico
- Successfully represented long-term care provider and its management company in connection with a multi-count complaint under the Illinois Whistleblower Act and Illinois common law asserting that a Registered Nurse was discharged in retaliation for 1) complaining internally about alleged abuse, neglect and other healthcare practices that she reasonably believed to be improper or illegal, 2) refusing to engage in such practices, 3) documenting and reporting the alleged practices to the Illinois Department of Public Health (IDPH) and 4) exercising her rights under the Illinois Workers' Compensation Act
- Secured summary judgment in favor of employer on all claims included in multi-count complaint filed in U.S. District Court for the Western District of Tennessee, alleging discrimination based on race, national origin and retaliation under Title VII, and breach of an implied employment contract under Tennessee common law; judgment affirmed by U.S. Court of Appeals for the Sixth Circuit
- Secured summary judgment in favor of national hotel operator on failure to promote, wage discrimination, hostile work environment, retaliation and wrongful discharge claims under the ADEA, the Equal Pay Act and Title VII
- Secured summary judgment in favor of employer on same-sex sexual harassment claim filed in U.S. District Court for the Western District of Tennessee
- Successfully represented Illinois nursing home against lawsuit by a Licensed Practical Nurse (LPN) claiming that she was discharged in retaliation for 1) complaining internally about practices that she reasonably believed to be illegal under the Illinois Nursing Home Care Act, 2) reporting the alleged illegal practices to IDPH, 3) participating in IDPH's related investigation and 4) refusing to provide false information to IDPH; the lawsuit also included a novel "associational" claim by the LPN's co-worker and fiancé, who alleged that his discharge was motivated by the defendant's desire to retaliate against his fiancée because of her protected activities
- Secured summary judgment in favor of employer on complaint filed in U.S. District Court for the Eastern District of Michigan alleging age discrimination arising out of termination in economically motivated reduction in force
- Secured summary judgment in favor of employer on handicap discrimination claim filed in Massachusetts state court based on finding that former employee was not a "qualified handicapped person" because he was incapable of performing the essential functions of his job with or without an accommodation; employee's alleged handicaps included hyperlipidemia, hypertension, severe headaches, TMJ and mild hearing loss

- Secured dismissal of wrongful discharge and fraud claims filed against employer in U.S. District Court for the Northern District of Mississippi
- Secured dismissal of claims of sexual harassment, race and sex discrimination, and retaliation filed against employer in U.S. District Court for the Western District of Tennessee
- Secured dismissal of complaint filed in the U.S. District Court for the Western District of New York alleging that employee was subjected to discrimination and harassment on the basis of his race and color
- Secured dismissal of multi-count complaint filed in Michigan state court alleging retaliatory discharge, interference with an implied contract of just cause employment, and breach of an oral or written contract prohibiting termination without just cause
- Successfully represented nursing home management company in defending against lawsuit alleging that it discharged the corporate director of human resources in retaliation for 1) attempting to investigate internal complaints of Medicare/Medicaid fraud and 2) participating in a U.S. Department of Labor audit related to the company's alleged misclassification of employees as exempt from the FLSA's overtime provisions
- Secured dismissal of race discrimination claim filed in U.S. District Court for the Western District of Tennessee based on plaintiff's failure to comply with Rules of Civil Procedure and Court's related discovery orders
- Persuaded plaintiff to voluntarily dismiss action filed in U.S. District Court for the Southern District of Georgia, alleging that employee was denied reasonable accommodations and discriminated against on the basis of his disability
- Secured summary judgment in favor of employer on state law claim alleging that employee was wrongfully discharged for exercising his rights under the Tennessee workers' compensation statute
- Secured summary judgment in favor of employer on retaliatory discharge and conspiracy claims filed in Texas state court
- Secured dismissal of common law claims for retaliatory discharge and intentional interference with prospective economic advantage brought against nursing home operator in Circuit Court of Lake County, Illinois, and affirmance of dismissal by Appellate Court of Illinois, Second District
- Assisted Illinois-based nursing home management company in successfully resolving retaliation, breach of contract and fraud claims brought by the vice president of operations, who claimed that she was discharged for exposing what she believed to be unlawful Medicare/Medicaid billing practices
- Secured summary judgment in favor of manufacturer of welding accessories on all claims included in multi-count complaint filed in U.S. District Court for the District of Kansas, alleging sexual harassment, sex discrimination and retaliation under Title VII, and wrongful discharge, invasion of privacy, negligent retention, infliction of emotional distress and assault and battery under Kansas common law; judgment affirmed by U.S. Court of Appeals for the Tenth Circuit
- Secured summary judgment in favor of construction contractor, company's president and two alleged supervisory employees on race discrimination claims filed in U.S. District Court for the Northern District of Illinois
- Secured summary judgment in favor of national publishing company on age discrimination claim filed in U.S. District Court for the Northern District of Illinois

- Secured summary judgment in favor of two managers of national cylinder manufacturer in action filed in Alabama state court seeking to recover damages in excess of those received from employer under Workers' Compensation Act for work-related injuries allegedly caused by managers' willful misconduct; action eventually settled on favorable terms after the Alabama Supreme Court reversed and remanded the case based on opinion defining key terms used in the provision of the Act which generally provides employers and co-employees with immunity from civil liability for work-related injuries
- Secured dismissal of state court assault and battery claim against nursing home based on preemption by Illinois Workers Compensation Act and Illinois Human Rights Act
- Secured summary judgment in favor of manufacturer of electrical parts in age discrimination suit filed in U.S. District Court for the District of New Jersey, alleging that disqualifying older worker because he was "overqualified" for an available entry-level position was a proxy for age discrimination
- Successfully represented restaurant employer in settling wage and hour class action asserting minimum wage and overtime violations based on alleged improper tip pooling, tip credit and meal credit practices; settlement provided fixed pool of funds for eligible class members and class counsel, minimal notice obligations, general releases from all class members, and no *cy pres* fund meaning that all undeliverable and unclaimed payments reverted to the employer
- Secured favorable settlement for manufacturer of court reporting equipment in sex and pregnancy discrimination shortly before trial of action filed in U.S. District Court for the Northern District of Illinois
- Represented national glazing contractor in defending federal court action alleging age discrimination in overtime assignments and termination; shortly after completing plaintiff's deposition, which exposed weaknesses in plaintiff's claims, case settled for less than one-tenth of plaintiff's original demand
- Successfully represented international manufacturer of dental equipment in defending FMLA retaliation and interference claims filed in U.S. District Court for the Northern District of Illinois
- Successfully represented nursing home operator in multi-plaintiff retaliatory discharge lawsuit filed in Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois; developed litigation strategy, including affirmative defenses based on post-discharge misconduct and preemptive effect of Illinois Whistleblower Act, which resulted in favorable settlement for client
- Secured nuisance value settlement of workers' compensation retaliatory discharge suit filed in Texas state court by former employee of electrical manufacturing company
- Successfully represented institutional pharmaceutical services company in defense of federal court ADA suit alleging discrimination and failure to accommodate plaintiff's disability (i.e., fibromyalgia and related medical conditions)

## Administrative Proceedings

- Secured decision in favor of automotive parts supplier dismissing former employee's claim of national origin discrimination after public hearing conducted by Administrative Law Judge of the Illinois Human Rights Commission; decision affirmed by the Illinois Appellate Court
- Secured dismissal of age discrimination charge filed by former Administrator of Miami-based nursing home after hearing before Miami-Dade County Human Relations Commission

- Secured dismissal of OSHA complaint alleging that security company unlawfully transferred and disciplined employee in retaliation for reporting an occupational illness and related workplace health concerns to management
- Secured dismissals of disability discrimination and failure-to-accommodate charges filed by hospital pharmacists who were denied reinstatement following release from inpatient drug treatment program with restrictions preventing performance of essential functions of position
- Secured favorable settlement for international candy manufacturer and distributor in race discrimination and retaliation claim filed with the Illinois Human Rights Commission
- Secured nuisance-value settlement of charge of handicap discrimination prosecuted against local nursing home before the Illinois Human Rights Commission
- Negotiated favorable EEOC-administered settlements of discrimination charges alleging pattern and practice of racially discriminatory hiring, job placement, assignment, compensation, and employment practices by temporary staffing company
- Secured dismissal of hundreds of charges of race, color, religion, national origin, sex, disability, handicap and age discrimination, sexual harassment, and retaliation filed against employers in various industries with federal, state and local fair employment practice agencies across the United States
- Successfully represented national retailer in connection with multi-state wage and hour audit by U.S. Department of Labor focused on application of Section 7(i) overtime exemption to company's retail sales employees and legality of training pay practices
- Successfully represented employers in wide range of industries with equal employment, wage and hour, and affirmative action investigations and audits conducted by various federal and state agencies, including the Equal Employment Opportunity Commission, Illinois Department of Human Rights, U.S. and Illinois Departments of Labor, and Office of Federal Contract Compliance Programs

## Trade Secrets and Covenants-Not-to Compete

- Successfully defended employer in connection with complaint for preliminary injunction and damages arising out of employer's hiring of direct competitor's former employee and alleging violations of the Illinois Trade Secrets Act, tortious interference with contract and tortious interference with prospective economic advantage; settlement enabled employer to continue employing the competitor's former employee in a position which fully utilized his valuable sales skills
- Successfully mediated multicount complaint against construction company alleging unlawful raiding of competitor's employees and customers, tortious interference, theft of trade secrets and unfair competition
- Successfully represented medical practice in enforcing post-employment restrictive covenants against oral surgeon; settlement prohibited former employee from soliciting the medical practice's patients and working as an oral surgeon in a restricted geographic area which encompassed the hospital campus on which the medical practice was located and from which the practice had developed longstanding and valuable referral relationships
- Represented distributor of packaging products in connection with lawsuit brought by competitor to enjoin company's employment of competitor's former sales representative; negotiated favorable settlement that enabled client to continue employing the sales representative in the competitor's market with only limited restrictions on competitive activities

- Successfully represented Chicago-area hospital in resolving threatened tortious interference claims related to hiring of physician who previously worked under a contract with a local medical clinic; settlement permitted hospital to continue employing the physician with no restrictions on competitive activities and no compensation to the former employer
- Prepared guidelines for sales persons to follow to avoid liability for tortious interference and unfair competition when aggressively pursuing business from a competitor's customers; assisted company with related sales training
- Drafted employment, non-compete, non-solicitation, confidentiality and anti-raiding agreements for employers in various industries, including healthcare, insurance, temporary staffing, manufacturing, professional services, environmental services and recycling, and software development
- Counseled employers in various industries on legality and enforceability of post-employment restrictive covenants under applicable state laws

## Other Employment Counseling and Transactional Work

- Provide ongoing counsel to employers in wide range of industries across the United States, including general advice on equal employment opportunity, reasonable accommodation, discipline and discharge, wage and hour, employee benefit, medical leave, and criminal background check issues, and drafting of employee handbooks, policy manuals, corporate codes of conduct, compliance programs, work rules, disciplinary guidelines, drug testing programs, employment applications, and other employment policies and forms
- Drafted affirmative action programs for companies in manufacturing, construction, publishing and health care industries with federal or state contracts triggering affirmative action obligations for women and minorities, qualified disabled individuals and veterans under Executive Order 11246, the Rehabilitation Act of 1973, the Vietnam Era Veterans Readjustment Assistance Act of 1974, and similar state statutes
- Negotiated and drafted employee leasing agreement between Indiana-based hospital and affiliated medical clinic and assisted clinic with planning and implementation of reduction-in-force, including drafting of special severance benefits plan and related separation agreements and releases
- Provided employment and labor due diligence for acquisition of regional medical center in the Chicago Metropolitan area, drafted employment agreement for the center's Chief Medical Officer and developed master staffing agreement for the center's nurses and allied health professionals
- Drafted numerous employment, change-in-control, independent contractor, employee leasing agreements, temporary staffing agreements, and related incentive, deferred compensation and sales commission plans for employers in various industries across the United States
- Drafted, and counseled employers regarding application of, alternative dispute resolution programs, including mandatory mediation and arbitration procedures
- Counseled employers regarding development and implementation of lawful workforce reduction plans, including drafting of early retirement, exit incentive and severance plans, and related separation agreements
- Counseled temporary staffing and day labor services regarding compliance with wage and hour laws, equal employment opportunity laws, and provisions of Illinois Day and Temporary Labor Services Act, and impact of joint employment rules
- Provided training for management employees, human resource professionals and first-line supervisors on various employment law topics, including conducting internal investigations, workplace harassment, minimizing exposure



when making and implementing discipline and discharge decisions, effectively handling retaliation claims, attendance control programs, conducting performance evaluations, and managing employee leave requests

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