

## **LABOR & EMPLOYMENT - Employment Counseling**

### Risk Management through Counseling & Training

We take a highly proactive approach to preventing employment problems rather than simply waiting for them to appear. This is risk management. Our approach is designed to avoid or minimize liability; and mitigate against costs, burdensome litigation, and potential business interruption for employers. We provide assistance on every aspect of labor, employment, employee benefits and immigration matters. We work with human resources managers, senior vice presidents, and in-house counsel on everything from regulatory compliance to labor relations, pre-litigation claims, litigation strategy, mediation and alternative dispute resolution, and beyond. Our clients include those operating in every imaginable industry — education, energy, entertainment, financial services, food and beverage, healthcare, hospitality, life sciences, manufacturing, social services, transportation and more.

### **How We Can Help You**

#### **We're Your HR 9-1-1**

Some problems come up quickly and are swiftly resolved; others never seem to end. Some problems are more intangible – you know something is not quite right but you're not sure how to deal with it. Perhaps an employee isn't behaving quite in accordance with policies, or someone requests a leave of absence for an unusual reason. Among the most concerning are internal complaints of alleged company policy breaches, or violations of law, including claims of unlawful harassment. Interactions with employees can be complicated, delicate and outside the routine. Our job is to counsel you through all employment-related issues from the birth of the employment relationship (recruiting and hiring decisions), and if necessary, to its death (termination). Doing so results in a more efficient and productive workforce and culture which enhances business success.

#### **Customized Training and Focus**

We know a properly trained team dramatically reduces troublesome situations. Our skilled attorneys will help train your team to understand the specific issues affecting your business. With the correct approach, issues can be resolved before they become significant. Sometimes it is not what is done, but how it's done. We audit your current practices and advise on the implementation of "best practices" if necessary. We are frequently called upon by businesses, national and state bar associations, and training providers to train lawyers, senior executives, middle- and low-level supervisors and employees on a wide range of issues. Among our most requested training programs are those related to discrimination, harassment, retaliation, performance management, discipline and discharge, leaves of absence, disabilities, and benefits. Our programs include on-site training and educational programs that use real-life examples to arm your team with the know-how to handle volatile situations. We also provide training and instruction to line employees on understanding the company's policies and how to best address difficulties with co-workers.

## The Day-to-Day Challenges

Not every employment-related challenge is a crisis. But even routine issues can be daunting. That's why we're ready to provide counsel and assistance for day-to-day decisions, including helping prepare written corrective action and disciplinary notices and memos on a variety of topics, including:

- Affirmative Action Plans
- Americans with Disabilities Act (ADA) compliance
- Drug and alcohol policies and testing
- Employment agreements
- Employee terminations
- Fair Labor Standards Act (FLSA) – wages and overtime
- Family and Medical Leave Act (FMLA) compliance
- Hiring decisions
- Internal complaints of alleged company policy or law violations
- Internal investigations
- Issues with employment screening, including credit checks and criminal background searches
- Joint employment
- Leave and benefit policies
- Managing leave, workers compensation and disabilities
- Military leave issues
- Occupational Safety and Health Administration (OSHA) inspections and citations
- Policy and handbook design and implementation, including an audit of best practices
- Reductions in force
- Terminations/severance/COBRA
- Unemployment compensation
- Unfair Labor Practice Charges
- Workers compensation
- Work rule policies and procedures

## ADVANCING OUR CLIENTS' GOALS

### A Delicate Matter of Sexual Harassment

We guided a client through a difficult investigation of sexual harassment in which a senior manager sent sexually explicit Facebook messages to and engaged in romantic encounters with a subordinate. The evidence was compelling as the subordinate retained paper copies of all the written messages. When the subordinate demanded that the manager end these encounters, the subordinate was fired. During the course of the investigation, the alleged harasser admitted to being a sex addict, asked to access the company's employee assistance program, and requested Family and Medical Leave. The matter was ultimately resolved without litigation.

### A Workforce Reduction

No industry is immune to layoffs. When a national sporting goods retailer was forced to pursue a large reduction in force – involving hundreds of employees – our attorneys walked the client through the process. We counseled the retailer on compliance matters, litigation avoidance and correct procedures. Litigation was completely avoided.

### Reclassification of Jobs

Following an audit of various working positions, our client realized numerous positions initially classified as overtime exempt, had changed and no longer qualified for exemption from overtime. We were able to shepherd the process of reclassification so that the positions were properly changed and re-classified as eligible for overtime, without any subsequent litigation or challenges by the reclassified employees.

### Bargaining for a Better Position

When one of our clients was organized through a very contentious union election, we were able to help them negotiate a first contract which our client felt placed them in a better position than before the election.

### A Difficult Termination

We worked step by step with a client over a several year period to exit a senior-level executive suffering from mental health issues. Notwithstanding difficult leave and disability issues, a successful transition occurred without litigation.

### Worker Attendance and Claims of Physical Limitations

We advised a client on best practices in resolving an employee attendance problem. Numerous employees claimed that they could not work more than eight hours per day or 40 hours per week, or they could not perform certain job duties as a result of various alleged physical limitations. We effectively addressed all of these issues without a resulting charge from the Equal Employment Opportunity Commission.

### Training for Managers Helps Prevent Problems

We provided our client with multiple training sessions over the course of several months on harassment, interviewing and hiring employees, managing performance, and amicably terminating various employees. We have conducted this type of training for many organizations.