



EMPLOYMENT-RELATED LEGAL SERVICES FOR WASHINGTON BUSINESSES

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I have represented businesses in the area of labor and employment law for the last fifteen years. My practice focuses on providing practical advice designed to prevent the considerable costs associated with employee claims. While I have other attorneys and support staff to assist me so that our charges remain low, I make special efforts to be personally and readily accessible to all of my clients.

Preventive Counseling: We provide practical advice about how to discipline and discharge your employees while reducing the risk of employee claims. We counsel businesses regarding the numerous statutory obligations placed on them in the employment context, such as their obligations under the Family and Medical Leave Act (FMLA), Americans with Disabilities Act (ADA), Occupational Health and Safety Act (OSHA), and the Consolidated Omnibus Benefit Protection Act (COBRA). We make special efforts to promptly respond to all types of personnel-related questions, such as how to conduct background checks, reduce L & I premiums, respond to reference inquiries, object to unemployment claims, and classify workers as exempt from overtime pay.

Employee Manuals and Personnel Forms: There are certain defenses to employment-related claims that are available to employers only if they have written policies on the subject. As a result, every business should have an employee manual with certain key components. We review existing employee manuals for compliance with applicable laws and have developed standard policies that can be easily and efficiently tailored to the size and individualized needs of your business. We also review and prepare personnel forms such as employment applications, job descriptions, leave requests, work performance reviews, letters of reprimand, and severance agreements. Because employment laws are constantly changing and new statutes are being enacted on a regular basis, we recommend that employee manuals and personnel forms be updated each year.

Administrative Charges: We handle complaints, investigations and audits involving federal, state, and local governmental agencies, such as:

U.S. Department of Labor (DOL): unpaid wages/health and safety violations

U.S. Equal Employment Opportunity Commission (EEOC): discrimination/harassment

National Labor Relations Board (NLRB): unfair labor practices (private employment)

Public Employment Relations Board (PERC): unfair labor practices (public employment)

Washington Human Rights Commission (HRC): discrimination/harassment charges

Washington Department of Labor and Industries (L&I): unpaid wages/workplace injuries

Washington Employment Security Department (ESD): unemployment benefits

Seattle, Tacoma, and Spokane Offices for Civil Rights: discrimination/civil rights

Civil Lawsuits: We handle all types of employment-related lawsuits, including claims for wrongful discharge, sexual harassment, and discrimination based on gender, race, age, religion, national origin, marital status, pregnancy, military status, and disability. We also handle retaliation and whistleblowing claims, as well as lawsuits involving wages, commissions, and employee benefits. We also obtain injunctions and file lawsuits for employers asserting such claims as unfair competition, customer solicitation, disclosure of confidential information, defamation, and interference with employment and business opportunities.

Mandatory Arbitration Programs: The Ninth Circuit Court of Appeals recently upheld an employer's right to require employees to sign binding arbitration agreements. While mandatory arbitration programs cannot preclude certain lawsuits and are not guaranteed to be enforceable, they have several important advantages for businesses. Arbitration often prompts an earlier resolution of employee disputes, and is generally quicker and less expensive than litigation. Unlike a lawsuit, which is a matter of public record, the arbitration process can be kept confidential. Furthermore, it is almost always to the employer's advantage to have an employee claim decided by an arbitrator, who is usually a retired judge or practicing attorney, rather than by an unpredictable and often biased jury. To be enforceable, a mandatory arbitration program must contain certain due process protections and other elements. We assist employers of all sizes in designing and implementing mandatory arbitration programs.

Workplace Misconduct Investigations: Whenever allegations of sexual harassment, discrimination, workplace safety violations, embezzlement, or other types of misconduct are raised, the employer should conduct an immediate investigation to reduce the risk of liability. We assist businesses in conducting investigations and taking appropriate corrective action.

Employment Contracts: We review and draft employment contracts that work in conjunction with your employee manual. We recommend that you have agreements with all of your independent contractors to avoid potential liability for payroll taxes, employee benefits, and worker's compensation and unemployment premiums. We review and draft contracts protecting your company's rights to employee inventions, prohibiting employees from competing against you, and protecting the confidentiality of your trade secrets and other confidential information.

Wage and Hour Issues: Washington has detailed regulations regarding minimum wages, overtime, mandatory employee breaks and meal periods, compensatory time off, child labor, workers' compensation, payroll deductions, wage garnishments, and continuation of health care insurance benefits. More and more companies are getting into trouble for failing to pay employees wages for all working time (like the *Nordstrom* lawsuit), improperly classifying employees as independent contractors (like the *Microsoft* lawsuit), or failing to pay overtime to nonexempt employees. We advise employers about how to categorize workers so that they are exempt from the federal and state overtime pay requirements, as well as how to comply with other applicable wage and hour laws.

Disability Accommodation: State and federal law require employers to reasonably accommodate employees with disabilities. Required accommodations include not only changing work equipment and job duties, but also changing work hours, creating new job positions, and granting transfers and prolonged leaves of absence. We advise your business about the disability accommodation process, including your right to obtain an independent medical examination and deny an accommodation request due to undue hardship.

Leaves of Absence: A complex web of federal and state statutes require employers to provide their employees with varying amounts of leave. Federal and state statutes mandate leave for maternity, paternity, and other various family and medical reasons. Employers are now obligated to provide intermittent leave in some cases and must continue to pay any employer portion of qualifying group health insurance premiums. Statutes also require employers to provide leave for military training and service, voting time, and jury duty. We advise employers regarding leave requests, medical certifications and examinations, required notices and documentation, and under what circumstances employees are entitled to reinstatement upon return from leave.

Union Issues: We advise employers with respect to preventative measures designed to avoid union organizing, including how to prepare, implement, and enforce nonsolicitation rules. In the event of an organizing campaign, we assist businesses with planning and implementing an effective counter attack. We advise employers regarding union election procedures and collective bargaining obligations. We also handle unfair labor practice charges involving union and nonunion issues before the National Labor Relations Board (NLRB) and Public Employment Relations Commission (PERC).

Workplace Safety: All businesses are required by OSHA and/or WISHA to establish, monitor, and strictly enforce a comprehensive workplace safety program, including training procedures, an accident prevention program, and a written chemical hazard communication program. Department of Labor and Industries (L&I) site assessment audits, which can occur randomly or be triggered by a single anonymous complaint, are rigorous and often result in substantial penalties. In addition, late night retailers, health care organizations, and other businesses are subject to specific regulations designed to decrease the threat of workplace violence. By implementing a comprehensive program under our direction, businesses can reduce the risk of workplace injuries, decrease L & I premiums, and avoid safety violations.

Drug and Alcohol Testing: Federal Department of Transportation (DOT) regulations mandate testing for certain employees holding safety-sensitive positions in the transportation industry, and the Drug-Free Workplace Act requires businesses with a federal contract exceeding \$100,000 or a federal grant in any amount to implement a specific drug-free program. On the other hand, various laws place restrictions on the types of testing that may be conducted, the manner in which the testing is performed, and the confidentiality and permissible use of test results. Considering applicable laws, we develop the appropriate program for your particular business.

Separation Agreements: We advise employers regarding employee discipline and discharge, reorganizations, reductions in force, and severance packages. We assist with the termination process and prepare separation agreements and releases designed to prevent employees from suing your business.

EEO Training: By training managers on exactly what type of workplace conduct is illegal and how to respond to employee complaints of unfair treatment, companies can often avoid the time, expense, and adverse publicity associated with employee claims. We prepare training materials and perform training sessions regarding compliance with equal employment opportunity laws and company policies. Our training methods and topics can be easily tailored to your company's particular needs.

Employment Practices Liability Insurance: In the past, employment practices liability insurance was too expensive to consider. Within the last few years, however, the cost of such insurance coverage has decreased. In addition, the policies that initially provided vague, conditional coverage have been revised in response to increasing demand and now offer broader coverage on more types of employment-related claims. We advise businesses whether EPL insurance makes economic sense and review proposed policies to make sure the coverage is worth the premium. We also advise businesses regarding whether and how to report potential claims, as well as how to ensure that their carriers accept their obligation to cover reported claims.

Special Services for Health Care Organizations: We represent numerous medical and dental groups and advise them regarding such specialized regulations as restrictions on mandatory overtime for nurses, the overtime provisions for hospital employees, privacy rules under the Health Information Portability and Accountability Act (HIPAA), and mandatory reporting of malpractice payments, licensure actions, and adverse professional review actions to the National Practitioner Data Bank. We handle partnership disputes, requests for medical records, patient complaints, and issues involving physician impairment, peer review proceedings, and clinical privileges. We advise health care groups regarding prohibited activities under the Washington Uniform Disciplinary Act, and handle complaints, investigations and audits by the Washington Department of Health and Medical Quality Assurance Commission (MQAC).

Employee Relations Audit: We perform audits of your employment practices and personnel policies and procedures. Such a review can consist of performing all or some of the services listed above. This type of audit is particularly useful for start-up businesses and companies that do not have an in-house employment attorney or experienced human resources professional.