

## Labor and Employment

### Straight Talk for Employers

The interaction between employer and employee is more closely regulated and has greater potential for conflicts than most other business activities.

Employers with a strong commitment to workplace honesty, integrity and fairness can still face trouble by unwittingly running afoul of the law, or be challenged by spurious allegations of misconduct.

Andrews Kurth helps employers identify and manage employment litigation risks for a diverse group of companies operating throughout the United States, Canada, South America and Europe. Our representations include:

- Resolving Workplace Claims and Litigation
- Guiding Employers through the Employment Process
- Developing and Implementing Employment Policies and Practices

Stressing creative planning, prevention and aggressive advocacy, our labor and employment lawyers work closely with our clients to defend the rights of employers.

We address the unique aspects of each client's employment issues and craft customized solutions that ensure compliance with federal, state and local labor laws. We understand that workplace issues often demand timely action; we pledge to answer questions and concerns with a same day answer.

We work with companies of all sizes to minimize employee disputes and maximize strategic advantages in litigation.

### Resolving Workplace Claims and Litigation

Even with well-executed preventive measures, the threat and reality of employee claims and litigation are inevitable.

When that occurs, our tiered resolution approach seeks to minimize costs and maximize results. We look for a pattern in the complaints and carefully gather and preserve all critical evidence while evaluating risk. In our analysis, we consider if a negotiated settlement, mediation, arbitration or trial represents the best way to resolve the dispute.

Highly experienced in managing all levels of employment litigation—multiplaintiff, class actions and collective actions—we act as aggressive advocates to protect our clients' rights and business interests. Our lawyers defend employers against claims involving alleged violations of federal, state and local laws including:

- Americans with Disabilities Act (ADA)
- Compensation and benefit disputes, such as garnishment, unemployment compensation, workers' compensation, stock option plans, and severance plans and agreements
- Contract allegations such as breach of contract, confidentiality agreements and covenants-not-to-compete
- Employment discrimination
- Fair Labor Standards Act
- Family and Medical Leave Act (FMLA)
- Occupation Safety and Health Act (OSHA)
- Sexual and other unlawful harassment
- Title VII
- Tort allegations including defamation, intentional infliction of emotional distress, invasion of privacy, assault and fraud
- Traditional labor law disputes, such as union avoidance, elections, collective bargaining, grievances, arbitrations and unfair labor practices
- Whistle-blower protection provisions of the Sarbanes-Oxley Act

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- Worker Adjustment and Retraining Notification (WARN) Act
- Wrongful discipline and discharge

Andrews Kurth lawyers also represent clients in administrative hearings. We appear before numerous federal, state and local government agencies and work with such authorities as:

- Department of Labor
- Equal Employment Opportunity Commission (EEOC)
- National Labor Relations Board (NLRB)
- National Mediation Board
- Occupational Safety and Health Administration (OSHA)
- Office of Federal Contractor Compliance Programs
- Texas Workforce Commission

### Guiding Employers through the Employment Process

An important benefit of our analysis of personnel policies and practices is its role in formalizing the process of creating, maintaining and severing the employment relationship.

When clear standards become the guidepost, employers gain the best defense against allegations of unfair or discriminatory conduct. Compliance with federal, state and local laws is a major area of counsel. We address:

**New Hires.** We review job descriptions, advertisements and applications, and advise on the testing, interview and selection process. Uniform evaluation and fair treatment of all applicants ensures that our client hires the best person for the job.

**Starting the Job.** We offer guidance on employers' rights and responsibilities involving employees' employment eligibility, including immigration and naturalization issues. Other issues we address include collective bargaining agreements, workers' compensation, employment contracts, confidentiality and noncompete agreements, and prohibiting discrimination and harassment.

**Performance.** From employee evaluations and discipline, to leaves and transfers with stated company procedures, we advise on all of the proper steps.

**Termination.** Whether termination is voluntary or involuntary, particularly due to discipline, reductions-in-force or facility closings, our lawyers assist with procedures, waivers, releases, severance pay and benefits, exit interviews, records retention and responding to reference requests.

### Developing and Implementing Employment Policies and Practices

The heart of our employment law practice is counseling employers on personnel policies and practices that minimize exposure to employee complaints, governmental agency actions and union-related problems, long before there is a hint of any problem.

To address conflicts in the workplace rather than in the courtroom, our lawyers:

- Answer questions on the same day to pressing concerns
- Review existing policies and practices for compliance with laws and regulations
- Develop Affirmative Action Plans in compliance with federal regulations, and provide guidance on AAP obligations
- Modify existing procedures and create new ones as needed
- Ensure that all company policies regulating workplace behavior are clear and enforceable

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- Coordinate all employee handbooks, manuals and forms with company policies
- Train supervisors to recognize problems involving attendance, leave, discipline, accommodation, discrimination and harassment
- Educate supervisors on prompt and appropriate responses to problems
- Assist clients in formulating and implementing diversity programs in the workplace

We are here to help employers realize their objectives and simplify the complex maze of federal, state and local laws regulating workplace behavior.