



Employment and Employee Benefits Practice Group

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MCGINNIS LOCHRIDGE EMPLOYMENT & EMPLOYEE BENEFITS PRACTICE GROUP

The McGinnis Lochridge Employment & Employee Benefits Practice Group provides a wide-range of comprehensive legal services to private and public employers, associations, and non-profit organizations. Our Practice Group is comprised of attorneys with more than 100 years of combined experience in labor and employment law and more than 35 years of experience in employee benefits advice and litigation, who regularly represent employers throughout the United States in litigation, counseling clients on statutory, regulatory, and other requirements, drafting and implementing policies and procedures, conducting training for all levels of management and employees, and leading complex and sensitive investigations on behalf of our clients.

Employment Advice, Counsel, & Training

Our team's depth of knowledge and expertise enables us to develop practical solutions for our clients on matters ranging from everyday workplace issues to complex, highly-sensitive matters. Specifically, we advise, counsel, and conduct internal investigations for our clients regarding federal and state laws and regulations, including:

- Anti-discrimination laws (Title VII and state laws, such as TCHRA)
- Wage and hour laws (FLSA & Texas Payday Act)
- FMLA
- ADA (Title I & Title III)
- ADEA
- Pregnancy Discrimination Act (PDA)
- Affirmative Action Plans (AAP) and OFCCP compliance
- COBRA
- ERISA
- Privacy issues
- Employee and independent contractor classifications
- Various restrictive covenants such as non-competition, non-solicitation, and non-diversion agreements
- Trade secrets and misappropriation of confidential information
- Reductions in force and organizational changes (WARN ACT, OWBPA)
- And many other aspects of the employer-employee relationship

We also conduct company-wide anti-harassment and anti-discrimination training for employers, as well as numerous other topics including diversity, wage and hour, FMLA, ADA, conducting investigations, and onboarding.

Employment Litigation

While one of our primary goals is to reduce and minimize the risk of litigation, our Practice Group is comprised of experienced trial lawyers who have represented employers in state and federal courts throughout the United States, at both the trial and appellate levels, as well as in mediations and arbitrations.

We also routinely represent employers on administrative matters, investigations, and lawsuits before several administrative agencies including:

- Equal Employment Opportunity Commission (EEOC)
- Department of Labor (DOL), including the Wage and Hour Division
- Office of Federal Contract Compliance Programs (OFCCP)
- Texas Workforce Commission (TWC)

Development of Employment Policies and Procedures

In addition to advising and counseling employers on employment discrimination matters, we assist with developing policies and procedures designed to achieve compliance with:

- Title VII of the Civil Rights Act
- Age Discrimination in Employment Act (ADEA)
- Americans with Disabilities Act (ADA)
- Family and Medical Leave Act (FMLA)
- Fair Labor Standards Act (FLSA)
- Pay equity laws
- Affirmative action laws (including EO 11246, VEVRAA, and Section 503)
- Texas Commission on Human Rights Act (TCHRA)
- Texas Workers' Compensation Act

We also routinely assist employers with developing tools to help them in all stages of the employment process, including onboarding, training, employee benefits, leaves of absence, discipline, and separation/termination, to ensure our clients have the best legal and human resources support available. We also help our clients conduct internal audits to ensure compliance with all applicable employment laws.

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Employment Agreements and Restrictive Covenants

We negotiate, prepare/draft, and review agreements for hiring all levels of employees, including:

- Executive agreements
- Separation or termination agreements
- Independent contractor agreements
- Staff leasing or professional employer organization (PEOs) agreements
- Non-competition agreements
- Non-solicitation agreements
- Non-diversion agreements
- Confidentiality agreements

We also advise and counsel clients regarding executive compensation arrangements.

Additionally, we represent employers and assist with the enforcement of restrictive covenants, including non-competition, non-solicitation, non-diversion, and confidentiality provisions/agreements in the courtroom and other proceedings.

Wage and Hour Counseling & Litigation

In addition, our lawyers are experienced in the complex landscape of wage and hour litigation and compliance. We regularly advise employers on the various requirements under the Fair Labor Standards Act and related state laws, including payment of minimum wage and overtime, record-keeping obligations, and proper exempt/non-exempt classifications. We also assist employers in reviewing their current pay practices and employee classifications to ensure compliance and mitigate potential risk to the organization. Specifically, our experience includes advising clients regarding:

- Independent Contractor–Employee status
- Classification of employee exemption status
- Calculation of overtime compensation, including calculating the regular rate of pay
- Proper payment of bonuses and commissions
- Determining compensable time, including on-call and travel time and meal and rest periods

Our skilled lawyers also represent employers across the country in wage and hour disputes, including individual and collective actions, as well as Department of Labor (Wage and Hour Division) audits and enforcement actions.

Employee Benefits

We advise employers and plan administrators on all aspects of employee benefit matters, including:

- ERISA, employee pension and welfare benefits plan requirements
- Cafeteria plans
- Insured and self-insured health and accident plans and medical reimbursement plans
- COBRA
- Health Insurance Portability and Accountability Act (HIPAA)
- Health Information Technology for Economic and Clinical Health Act (HITECH)
- Affordable Care Act (ACA)
- Dependent care plans
- Sections 401(k), 403(b) tax deferred annuity and 457 plans
- Nonqualified deferred compensation arrangements
- Internal Revenue Code section 409A
- Executive compensation arrangements

We also prepare and review plan documents and represent clients in Internal Revenue Service (IRS) and Department of Labor audits of employee benefit plans and IRS and DOL voluntary compliance proceedings.

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Wrongful Discharge & Employment Law Torts

We advise and counsel private and public employers regarding employee terminations and non-renewals, including claims for breach of contract, retaliatory discharge, discrimination, defamation, Sarbanes-Oxley, whistleblower, Sabine Pilot discharges, and claims for workers' compensation retaliation.

Employer Liability & Workers' Compensation Defense

Our lawyers advise and represent employers in matters involving workers' compensation laws, including non-subscriber provisions and cases alleging gross misconduct, intentional wrongdoing, and retaliatory discharge.

Texas Payday Act & Unemployment Benefits Claims

Our employment attorneys also have broad experience advising employers on requirements of the Texas Payday Act and the Texas Unemployment Compensation Act, including related representation before the Texas Workforce Commission.

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