

OUR PRACTICE

Labor & Employment

Baker Donelson's labor and employment attorneys are dedicated to helping our clients manage their workforces. Our clients benefit from an integrated and experienced team of professionals who assist in every aspect of an organization's employment-related legal needs. When it comes to a company's most valuable asset – its employees – our labor and employment attorneys are committed to counseling and advocating for employers every step of the way.

We work alongside our clients by offering employee policy analysis and drafting, compliance audits, management training, labor negotiation, pre-litigation strategies to reduce legal risks, and litigation defense for administrative and court proceedings at the federal and state levels. We take pride in being responsive to our clients and developing a genuine understanding of their needs and business goals.

Our team of more than 70 attorneys serves clients throughout North America from the Firm's offices in 12 states and Washington, D.C. In the last three years our team members have appeared in nearly 300 federal court cases in the Third, Fourth, Fifth, Sixth, Seventh, and Eleventh Courts of Appeals, and argued cases in 26 states and the District of Columbia.

Human Resources Services

Clients call on our attorneys to conduct human resource audits and develop training programs for supervisors and managers. Topics include workplace harassment prevention, leave management, employee engagement and retention, reductions in force, drafting compliant policies, negotiating and drafting c-suite executive employment agreements, and more. We offer mock trials, case studies, role-playing, and tailored trainings for human resources managers, mid-level managers, and front-line supervisors. We incorporate tools that bring training to life and give managers an opportunity to problem-solve and collaborate with their peers to solve some of their most common and toughest workplace challenges.

Compliance

Clients look to Baker Donelson to ensure their compliance with employment-related laws and regulations such as the American with Disabilities Act (ADA), Age Discrimination in Employment Act (ADEA), Title VII of the Civil Rights Act of 1964, Equal Pay Act, Fair Labor Standards Act (FLSA), Family and Medical Leave Act (FMLA), Worker Adjustment and Retraining Notification Act (WARN), Employee Retirement Income Security Act of 1974 (ERISA), Occupational Safety and Health Administration (OSHA) regulations, and the myriad of corresponding state and municipal laws. Members of our team regularly advise on a full range of workplace compliance issues, including immigration, affirmative action, leave and disability, wage and hour, workplace safety, employee benefits, workplace and data privacy, employee discipline, harassment, discrimination, retaliation, discharge and restructuring, workers' compensation, reduction in force, union organizing, collective bargaining, and other issues.

Workplace and Government Investigations

We have deep experience conducting workplace investigations involving a wide range of allegations of employee wrongdoing, including harassment and discrimination and employee fraud and embezzlement, and have done so for small businesses and Fortune 500 companies alike. In some cases, the best defense may be for a client to conduct its own internal investigation, and in those instances, our attorneys coach clients on how to do so most effectively. In other cases, or we conduct the investigations ourselves and provide comprehensive reports on our findings.

When clients face investigations by government agencies, including the Department of Labor (DOL), Department of Justice (DOJ), Department of Homeland Security (DHS), Equal Employment Opportunity Commission (EEOC), National Labor Relations Board (NLRB), or Federal Trade Commission (FTC), we work with them to navigate the complexities and to limit their exposure. We excel in organizing the best way to respond to warrants and subpoenas and prepare employees for interviews with government investigators. We also work with our clients to craft a well-organized document production process, often in unanticipated situations with tight deadlines.

Litigation Services

While we work hard to help our clients avoid litigation, should it occur, our first objective is to gain a clear understanding of our clients' goals. Relying upon our extensive courtroom experience, we defend the allegations levied against our clients, such as employment-related tort actions and claims of wrongful discharge or unlawful discrimination. We represent clients before the DOL, and the EEOC, among other regulatory bodies. If our client's goal is to resolve the matter quickly, we are experienced in mediation and negotiation of settlement terms that enable us to conclude the matters effectively and efficiently.

Protecting Your Company's Trade Secrets, Relationships, and Goodwill

We work with our clients to develop comprehensive programs to minimize the risk of trade secret theft, unfair competition, breach of fiduciary duties and restrictive covenants, and other unethical business practices by current or former employees. Protecting a business's competitive advantage requires a pragmatic approach and a diverse legal toolkit that begins with strategic thought long before an employee is hired. With careful planning and deployment of the right tools at the right times for your business, most violations and harms can be prevented or significantly reduced. Our labor and employment attorneys are experienced in drafting restrictive covenant agreements that comply with applicable laws, including non-competition, non-solicitation, non-recruitment, and non-disclosure agreements; drafting policies and advising on best practices for protecting confidential, proprietary, and trade secret information; and establishing business property and data security protocols to protect against misappropriation, disclosure, and misuse of valuable assets. We collaborate with attorneys across practice areas – including corporate/business, intellectual property, and cybersecurity – to provide solutions tailored to our clients' business and industry-specific needs.

These measures also ensure that, when a violation or breach occurs and legal action is necessary, a solid foundation for enforcement has been established. Our litigation teams are prepared to swiftly gather and analyze evidence (which often includes electronic data and metadata), secure forensic examinations and experts, and seek appropriate damages and injunctive relief, including temporary restraining orders and preliminary injunctions until permanent relief can be obtained. We represent our clients in claims under applicable state laws and under federal laws such as the Defend Trade Secrets Act, Computer Fraud and Abuse Act, and Stored Communications Act.

We also assist our clients in evaluating their ability to hire candidates from competitors, navigating any legal or contractual parameters that may apply, and formulating best practices for properly onboarding and managing employees. Our attorneys advise our clients on how to avoid creating legal conflicts and, where unavoidable, how to conduct their business so that their position is defensible.

Inclusivity

We know our clients seek strategic counsel in creating a sustainable climate of inclusivity in the workplace. We partner with them on the Environmental, Social, and Governance (ESG) impact of business decisions by assessing their goals, culture, and priorities to identify areas of opportunity. We create, evaluate, and maintain Diversity, Equity, and Inclusion (DEI) plans and initiatives; conduct audits and surveys to evaluate workplace culture; and develop robust professional development training curricula. Our labor and employment lawyers address legal risk at all stages and provide best practices for creating sustainable inclusive workplace climates.



Case Studies

- [Victory for Pro Bono Client in Immigration Case](#) - Immigration



Representative Matters

- Successfully defeated a 45,000-individual collective action in a suit alleging that our client's business model of using independent contractors violated the law. After the court granted certification, we achieved a number of critical victories surrounding the notice process, the discovery process and the proposed class, resulting in less than 1,400 plaintiffs opting in to the case. We then argued for and used the information from the individual discovery process to seek dismissal with prejudice of the opt-in plaintiffs' claims. Plaintiffs approached about voluntary decertification, which was more favorable than an order from the court.
- Obtained dismissal of a \$10.5 million action against a piano string manufacturer that included purported causes of action under the Tennessee Public Protection Act and common law prohibition against retaliatory discharge and outrageous conduct.
- Managed an audit team which used the Firm's proprietary FLSA Audit Portal to conduct an internal classification audit and work with the DOL on a contemporaneous external audit for a 15,000-employee client. The two-phased internal audit involved more than 450 managerial interviews and more than 500 position evaluations. The DOL accepted and relied upon our internal audit findings for 90 percent of the positions under its audit. Baker Donelson also provided guidance to the company on potential job duties restructuring to qualify certain positions for exemption, assisted in back-pay calculations, and advised on reclassification of the positions.
- Successfully defended a publicly-traded software company against a complaint filed with the Department of Labor by a former employee, alleging he was fired due to whistleblowing activity in violation of the Sarbanes-Oxley Act. Won a motion for summary decision, and all claims were dismissed with prejudice.
- Successfully defended a national restaurant chain in a \$1.5 million arbitration in which a former manager alleged violations of ERISA and the Age Discrimination in Employment Act. Obtained a complete defense verdict.
- Successfully defended a major food processing company in a \$2 million federal lawsuit filed by a former employee alleging discrimination claims under 42 U.S.C. 1981 and Title VII. Obtained dismissal of multiple claims via a motion to dismiss and a motion for summary judgment and obtained a complete defense verdict on the remaining claims following a jury trial. The U.S. Court of Appeals for the Eleventh Circuit affirmed the district court's ruling.
- Won a motion for summary judgment on behalf of a major commercial bank in a lawsuit by a former employee alleging violation of the Age Discrimination in Employment Act and other tort claims.