

Labor/Employment

Few areas of economic activity are more closely regulated and offer more potential for conflict than the interaction between employer and employee. Andrews Kurth helps to manage employment risks for a large and diverse group of companies that have operations throughout the US as well as in Canada, South America, and Europe.

We work closely with our clients' human resources professionals developing a solid understanding of each company's employment issues and policies and crafting customized solutions to ensure compliance with national and state labor laws to minimize disputes with employees and to maximize strategic advantage if litigation is necessary. We stress creative planning and aggressive advocacy for each client.

Risk analysis so you can better manage risk

The heart of our employment law practice is counseling employers on personnel practices and policies that minimize exposure to employee complaints, governmental agency actions, and union-related problems. We help our clients develop and implement a strategy that complements their core objectives and fosters a positive working environment—long before there is a hint of any problem. The goal is to keep management fully informed, in control, and able to address problems in the workplace rather than in the courtroom.

Our Employment Risk Analysis and Audit Services are designed to simplify the increasingly complex maze of federal and state laws regulating workplace behavior by taking these essential actions:

- Provide same-day answers from an Andrews Kurth lawyer to any questions or concerns
- Audit existing policies and practices for compliance with laws and regulations
- Modify existing procedures and create new ones as needed
- Ensure that all company policies regulating workplace behavior are clear and enforceable
- Coordinate all employee handbooks, manuals, and forms with company policies
- Train supervisors to recognize problems involving attendance, leave, discipline, accommodation, and harassment, and to respond promptly and appropriately
- Keep supervisors up to date on the latest changes in the law through our hands-on seminars, *Employer Alert* newsletters, and client advisories

Formalizing the employment process

An important benefit of our risk analysis process is that it helps employers formalize the process of creating, maintaining, and severing the employment relationship. Clear standards that are followed objectively offer the best defense against allegations of unfair or discriminatory conduct. We work to ensure that our clients comply with federal, state, and local laws at every step:

- **Hiring new employees.** We review job descriptions, advertisements, and applications and advise on the testing, interview, and selection process to help make sure that all applicants are evaluated uniformly and treated fairly, to ensure our client hires the best person for the job.
- **Starting the job.** Our guidance ensures our clients understand all their rights and responsibilities involving benefit plans and eligibility, collective bargaining agreements, workers' compensation, employment contracts, confidentiality and non-compete agreements, and prohibiting discrimination and harassment.
- **Maintaining performance.** We advise on the proper steps to conform employee evaluations, discipline, leaves, and transfers with stated company procedures.
- **Terminating employment.** 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.

Resolving workplace disputes, claims and litigation

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We use our knowledge of our clients' workplace policies and practices to vigorously defend them in administrative hearings or at trial. Our lawyers have represented employers before numerous federal, state, and local government agencies, including the following:

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

Early in these proceedings, we seek the opportunity to demonstrate that the allegations made are without merit, and we are often able to conclude matters without penalty or other remedial action. When necessary, we have litigated in state and federal courts around the country using trusted local counsel to help with filings and trial planning.

Our lawyers defend employers against claims involving any employment law issue:

- Charges of employment discrimination, sexual harassment, wrongful discipline and discharge
- Alleged violation of laws such as Title VII, the Americans With Disabilities Act (ADA), Fair Labor Standards Act, Family and Medical Leave Act (FMLA), Occupation Safety and Health Act (OSHA), Worker Adjustment and Retraining Notification (WARN) Act, and other federal and state statutes
- Tort allegations such as 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
- Compensation and benefit disputes such as garnishment, unemployment compensation, workers' compensation, ERISA liability, stock option plans, and severance plans and agreements
- Contract allegations such as breach of contract, confidentiality agreements, and covenants not to compete

In any litigation, we work to minimize costs and maximize results by applying a tiered approach to the issues. First, we look for a pattern in the complaints. Second, we carefully gather and preserve all critical evidence while evaluating risk. We analyze whether a negotiated settlement, mediation, arbitration or trial represents the best way to resolve the dispute. We have only one focus in our employment litigation work: to secure the best outcome for our client. We are not afraid to litigate and are aggressive advocates for our clients in settlement, at trial, and on appeal. We have multi-plaintiff, class action, and collective action experience.

Defending the rights of employers

Most employers have a strong commitment to honesty and fairness in the workplace. And yet, heir companies can still face trouble by unwittingly running afoul of the law—or by facing a spurious allegation of misconduct. Andrews Kurth labor and employment lawyers work to identify risks that can become problems and to resolve problems that do occur in the most effective way possible.

We show you the right practices to follow and make sure they become part of your workplace. If disputes do occur, we work to resolve them, but are committed to giving you tough, aggressive, but cost-effective defense against employment-related claims before regulators and courts. We'll always give straight talk on problems, responsibilities, and solutions. After all, you are our boss.