ECKERT SEAMANS

Labor & Employment

OVERVIEW

Attorneys in Eckert Seamans' Labor & Employment Group work closely with our clients' labor relations, human resources, and management professionals to strategize and implement effective and efficient solutions to the time-sensitive issues that confront employers across numerous industries.

The attorneys in the Labor & Employment Group take a proactive approach to identify and minimize the potential for costly litigation through counseling, workplace training, and creating practical and effective policies and labor agreements. However, if litigation becomes necessary, our seasoned attorneys have a track record of successful outcomes at both the trial and appellate levels throughout the United States as well as before labor arbitrators.

Eckert Seamans' Labor & Employment Group helps the management of employers of all sizes at the national, state, and local level. We also have significant experience representing public employers at the statewide, county, and local levels. In addition, our attorneys serve as legal counsel to many statewide and national associations that represent the interests of public and private employers. Examples of issues with which we assist clients follow below:

- Advising on all union-representation matters, such as union avoidance, union election campaigns, and union decertification;
- Serving as chief negotiator and advisor in union collective bargaining negotiations and participating in interest arbitration;
- Assessing successor employer liability and applicability and enforceability of existing non-compete agreements for clients acquiring new entities or participating in a merger;
- Counseling employers on hiring, discipline and discharge, and reductions in force; negotiating and drafting individual and group separation and severance agreements;
- Advising employers on proper employee classification for wage and hour purposes as well as providing guidance to employers facing workplace audits from the Department of Labor, and representing employers in single-plaintiff and class action wage and hour litigation;
- Assisting with the adjustment of grievances and contract language interpretation issues from the outset of the dispute through grievance arbitration;
- Helping employers address day-to-day issues, such as attendance, performance, disability, and leave;
- Guiding employers with regard to the administration and implementation of policies to comply with the Family and Medical Leave Act (FMLA), Fair Labor Standards Act, Employee Retirement Income Security Act (ERISA), as well as policies covering social media and other technology driven areas;
- Providing guidance to clients on matters involving claims under federal or state discrimination laws at all stages of the process, from addressing employee complaints and concerns to the administrative complaint stage through litigation and arbitration of such claims; and
- Counseling and assisting clients with employment-related investigations involving claims of employee misconduct, workplace incidents involving the Occupational Safety and Health Act (OSHA) and sexual harassment.

BUSINESS IMMIGRATION

The Immigration Practice at Eckert Seamans represents businesses, institutions, organizations, and individuals from around the world on a wide array of immigration, global workforce, and compliance matters.

Our attorneys represent clients on a broad range of matters, including:

- Immigrant Visas (EB-1, EB-1A, EB-1B, EB-2, EB-3, EB-2, NIW, etc.) and Adjustment of Status
- Non-Immigrant Visas (H-1B, L, TN, O, R, P, etc.)
- Familial Visas (Spouses, fiancés, children, and other eligible relatives)

- Administrative litigation with the DOL and USCIS
- Work authorization compliance and I-9 audits
- Naturalization and Citizenship Matters
- Representing businesses in connection with DOL and ICE audits and investigations

In the context of business, employers, now, more than ever, must ensure that the foreign national talent they recruit is available when promised, within budget, and positively received. Our full-service team of labor, employment, immigration, and benefits lawyers work tirelessly on behalf of our clients.

Eckert Seamans' team of labor, employment, immigration, and benefits lawyers counsel clients on the issues impacting the global workforce, contending with local, national, and international regulatory requirements, visa and work permit bureaucracies, complex tax regimes, and a host of other legal and compliance challenges.

REPRESENTATIVE MATTERS

- ***Precedential Opinion Issued by the Sixth Circuit.*** In a precedential opinion, the Court of Appeals for the Sixth Circuit held that volunteers do not have the right to assert discrimination claims under federal employment discrimination statutes. Our attorneys successfully argued this point on behalf of the American Red Cross in *Sister Michael Marie, et al v. American Red Cross, et al*, a case decided in November 2014.
- ***Federal Court Refuses to Certify Class Action.*** A federal district court ruled that a Fair Labor Standards Act overtime pay case would not proceed as a collective action because of differences among claims of the 3000 plaintiffs who had opted in to the case, granting the firm's motion to decertify. As a result, the claims of all but 4 plaintiffs were dismissed.
- ***Arbitrator Upholds Discharge of Police Officer for maintaining "paper" residence***. In a case interpreting just cause under a collective bargaining agreement, our attorneys obtained an arbitration award holding that a police officer required to comply with a residency requirement was properly terminated where his motor vehicle, tax, banking, and voter registration documents indicated that he maintained a qualifying residence, but, in reality, he lived elsewhere.
- ***Group Attorneys Obtain Summary Judgment For Office of District Attorney in Age Discrimination Case***. In a case under the Age Discrimination in Employment Act and the Pennsylvania Human Relations Act, a federal court ruled that our client, a county district attorney, did not violate either state or federal law when he re-organized the Office of District Attorney and separated two long-term prosecutors.
- ***Third Circuit Affirms Summary Judgment For Employer In Sex, Age And Race Discrimination Case***. In a case under Title VII, the Court of Appeals for the Third Circuit affirmed a decision of a federal district court in Pennsylvania granting summary judgment in favor of our client. The case was brought by an employee alleging that he was discriminatorily denied certain promotional opportunities.
- ***Federal District Court Enters Summary Judgment For Our Client***. In a case involving claims under the National Labor Relations Act where an employee alleged breach of a collective bargaining agreement against our client and a breach of the duty of fair representation against the employee's union, the federal district court dismissed all claims against our client.
- ***United Steelworkers Defeated In Union Decertification Election***. On behalf of a manufacturing client, we successfully represented the client in a decertification election against the United Steelworkers. By a substantial margin, the employees voted that they no longer wished to be represented for collective bargaining purposes by the United Steelworkers.
- ***Group Attorneys Assist Client In OSHA Matter Involving Fatalities***. Upon short notice, Group attorneys assisted our client's rapid response team in dealing with a major fatality crisis at its facility. We conducted interviews, preserved evidence, secured experts and represented our client in the OSHA proceedings where all citations against our client were dismissed.
- ***Second Circuit Affirms ERISA Judgment***. In a case brought under ERISA, the Court of Appeals for the Second Circuit affirmed a decision of a federal district court in New York in favor of our client and against Eastman Kodak Company and a former senior executive of that Company, where the

executive was seeking to recover a very substantial lifetime pension benefit under a "top-hat" pension plan provided for the benefit of executives by a former Kodak subsidiary that was purchased by our client.

- ***Third Circuit Provides Guidelines in Sexual Harassment Cases.*** Affirming a judgment in favor of our client, the U.S. Court of Appeals for the Third Circuit, addressing an issue of first impression, has announced guidelines on how high up a manager must be in order for that manager's knowledge of sexual harassment of an employee to be imputed to the Company, such that the Company would be liable for failure to take action to prevent and correct the harassment.
- ***ERISA Win in Connecticut.*** Our attorneys won a hard fought and drawn out ERISA disability lawsuit filed in federal court in Connecticut by an employee who had retired from military service before accepting employment with our client. The plaintiff contended that our client's disability plan should provide benefits for his lifetime despite the fact that the injuries (non-combat) which led to his eventual inability to work were sustained during his military service. The case presented important issues of benefit plan interpretation.
- ***Philadelphia Jury Doesn't Buy Plaintiff's Retaliation Claims.*** Our lawyers won a defense verdict after a six-day jury trial of an Americans with Disabilities Act case in the federal district court in Philadelphia. The plaintiff claimed that he was discharged from his job of 26 years because he sought a temporary disability leave. The jury found that the plaintiff was discharged for legitimate reasons, rejecting his claim for millions of dollars in back and front pay and punitive damages.
- ***Jury rejects race discrimination and retaliation claims***. A human resources manager who was discharged for poor performance sued and alleged that she was paid less than Caucasian employees because of her race, and that she was discharged shortly after making a complaint about her pay, in retaliation for that complaint. A federal court jury rejected the plaintiff's claims, finding in favor of our client on all counts.
- ***Defense verdict on disability and retaliation claims***. The plaintiff alleged that he was discharged from his professional position because he was disabled and in retaliation for his having filed a workers' compensation claim. After a trial in Marshall County, West Virginia, the jury returned a verdict in favor of our client, rejecting all of the plaintiff's claims.
- ***Major arbitration case won***. A client recently sold a manufacturing facility to a buyer who refused to assume the collective bargaining agreement. The Union demanded almost two million dollars in severance payments. The Arbitrator fully sustained our client's position and awarded no severance payments.
- ***Settlement of Federal Discrimination Case with No Contribution by Clients.*** Our lawyers defended two individual school board members in a highly public, multi-party civil rights claim brought by the former superintendent of schools claiming that he was owed due process prior to his termination. Eckert's clients were released from the lawsuit without the payment of any money following a successful Motion to Dismiss.
- ***Privatization of Government Functions***. Eckert Seamans has represented several municipal entities in the sale or spin-off of former government functions such as nursing homes and shelter functions. In one case, our lawyers successfully sold a County's nursing home for $ 14 million dollars while retaining workers' jobs and avoid any lawsuits.
- ***High Risk Terminations.*** Our lawyers have counseled numerous employers in the separation of long-tenured employees and high-ranking accused of wrongdoing. In its capacity as General Counsel to one employer, Eckert Seamans handled a criminal investigation into a senior employee who was also President of the local union, after a carefully documented investigation led by Eckert Seamans, the employee voluntarily resigned and agreed to reimburse the employer for monies owed.