

## Employment

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Prominent clients from many institutions and industries turn to the lawyers in our Employment Group for all kinds of proactive counseling and workplace training, as well as the negotiation and crafting of employment-related agreements, and drafting of policies and manuals. Clients also benefit from our careful review and crafting of compensation and benefit plans.

Our Employment Group counsels clients regarding a wide range of employment matters. We keep clients well-informed of the rapid changes within this heavily regulated area and work closely with them to develop strategies that can improve workplace culture and minimize potential liability.

They rely on us not just for our skill and experience, but our emphasis on responsive service and practical advice based on each client's business objectives, as well as the applicable law.

Chambers Global, Chambers USA and other peer-reviewed publications have recognized the work and reputation of our employment law advocates, who have collectively authored many scholarly articles and publications, lectured in law schools and continuing legal education forums, and provided expert commentary for media publications and news outlets, such as NPR and Lawyers Weekly. Our team also includes MCAD certified trainers who are specially equipped to provide MCAD compliant training.

Many of our core employment law clients have been with us for 15 years or more, reflecting our collective dedication to superior client service. We respond promptly to client inquiries and deliver advice in a prompt and efficient manner.

We understand and appreciate that a client is entrusting us with very significant issues. We take this responsibility very seriously and we return that trust with our most serious professional efforts.

## Our Clients

Public and privately held companies, non-profit institutions, and professional service providers, such as law firms and physician groups, all rely on our employment law services.

Our clients are involved in many industries and enterprises, including , education, health care, pharmaceuticals, financial services, manufacturing, retail, restaurants, hospitality, recreation, media, auto sales and distribution, energy, technology, aerospace and defense, as well as all kinds of real estate development, management and construction.

## Representative Matters

### **External and Independent Investigations**

Conducted external and independent investigations for clients in higher education, transportation and logistics, manufacturing, retail, sports, financial services, healthcare, and nonprofit industries.

### **Agency-Certified Trainings on Equal Employment Opportunity Laws**

Completed training certified by the Massachusetts Commission Against Discrimination on investigating reports of discrimination and harassment in the workplace, and on strategies for responding to requests for workplace accommodations.

### **Designing and Conducting Equity Reviews in the Education Industry**

Co-led, designed, and conducted a large-scale equity review of a university's systems and structures for preventing, reporting, and responding to incidents of bias, discrimination, and harassment. Developed recommendations designed to improve the experiences of students, faculty, and staff.

Conducted an equity review of policies and procedures for an independent secondary school as part of a broader equity initiative.

### **Workplace Training Programs**

Conduct periodic discrimination and harassment prevention training for clients in retail, private equity, media, sports, and nonprofit industries.

### **Defense of Anti-Money Laundering Act Retaliation Claims**

Secured dismissal of whistleblower retaliation complaint filed with the Occupational Safety and Health Administration against a financial technology company.

### **Defense of OSHA Retaliation Claims**

Secured dismissal of multiple whistleblower retaliation complaints filed against a commercial real estate developer under the Occupational Safety and Health Act.

### **Defense of Trade Secret Litigation**

Secured dismissal of claims of trade secret misappropriation, tortious interference, and unfair and deceptive practices filed against an aviation company.

### **Defense Verdict in Breach of Contract Case**

Obtained a defense verdict in a bench trial of a breach of contract action brought by a customer against a retailer.

### **False Claims Act Investigation and Qui Tam Action**

Represented a multinational retailer in a false claims act investigation brought by the Attorney General of New York and in a related qui tam action.

### **Litigation of Public Accommodation Discrimination Cases**

Secured dismissal of claims of public accommodation discrimination brought against retailers.

### **In-House Employment Counsel Secondment**

Acted as in-house employment counsel for a private employer, providing day-to-day employment and business advice to legal, human resources, and executive leadership teams on a temporary basis.

**External and Independent Investigations**

Conducted external and independent investigations for clients in higher education, transportation and logistics, manufacturing, retail, sports, financial services, healthcare, and nonprofit industries.

**Non-Profit Organizations Employment Matters**

Representation of non-profit organizations regarding employment practices, including employee discipline and termination, employment policies, and investigation and resolutions of employee misconduct, and representation regarding senior executive matters including employment agreements, 409A deferred compensation, severance agreements, split-dollar life insurance arrangements, reasonableness standards and safe harbors to comply with the intermediate sanction rules, employee benefits and executive compensation matters, including the creation of deferred and incentive compensation programs for the executives and overseeing compliance matters for such programs under ERISA and the Tax Code.

**Financial Services Holding Company Employment Matters**

Representation of a large financial services holding company in its employment matters, including in connection with acquisitions and related challenges (restrictive covenants and employment agreement).

**General Representation of Privately Held Businesses In Massachusetts**

General representation of one of the largest privately held businesses in the Commonwealth of Massachusetts – including day to day advice, annual training of more than 2,500 employees, handbook development, representation in wage and hour audits and all manner of employment litigation.

**Non-Profit Organization Employment Negotiations and Plans**

Advising non-profit organizations in connection with the full range of employment negotiations and plans.

**Benefit Plan Strategy and Implementation**

Provides legal guidance for benefit plan strategy and implementation.

**Compliance Under Federal Laws**

Provides guidance to clients on compliance under federal laws such as ERISA, COBRA, HIPAA, FMLA and the tax code (including Section 409A).

**Employee Benefit Plan Design and Compliance**

Represents clients in all areas of employee benefit plan and equal employment communications.

**Employee Benefits Training**

Conducts employee benefits training for legal and non-legal audiences.

**Employee Communications Materials**

Reviews and revises employee communications materials.

**Employment Negotiations and Plans for Non-Profit Organizations**

Advises non-profit organizations in connection with the full range of employment negotiations and plans.

**Executive Compensation**

Designs and drafts executive compensation employee benefit plans.

**Merger & Acquisition Review and Analysis**

Performs due diligence review and analysis on compensation, benefits, and employment issues for mergers and acquisitions.

**Defense of Automobile Dealerships in Wage and Hour Class Action**

Representation of automobile dealerships in defense of multiple class actions alleging widespread violations of wage and hour laws, which involve novel claims under Massachusetts law.

**Discrimination and Harassment Prevention Trainings**

Conducts internal workplace trainings on strategies for identifying, preventing, and responding to discrimination and harassment, and other workplace misconduct.

**Government and Internal Investigations**

Represents clients in government and internal investigations involving workplace safety and health and environmental laws, and state and federal false claims act matters.

**Automobile Dealership Outside Employment and Human Resource Legal Counsel**

Acting as outside employment and human resources legal counsel to the largest privately-owned group of automobile dealerships in Massachusetts. Conduct annual training and defend the dealerships in connection with harassment and discrimination claims and class actions alleging widespread violations of the wage and hour laws.

**Commercial Real Estate Service Company Day to Day Employment Issues**

Representation of the largest full-service commercial real estate services company in New England and advise the client with respect to day to day employment issues, including workplace trainings, employee offer letters, employee handbooks, employee medical leaves, discipline and separations. Successfully defended the client in connection with wage and hour litigation asserted by commissioned employees. Currently defending the client in connection with a minimum wage and overtime/joint employer claim brought by a former employee.

**Companies Entering US from Canada, UK and Europe New Employment Policies, Draft Employment Agreements , Offer Letters and Employee Manuals**

Regularly handle the employment work for companies entering the US from Canada, the UK and Europe, ranging from retailers to consulting firms to pharmaceutical companies. Help clients to craft all of the new employment policies, draft employment agreements and offer letters as well as

create the employee manuals for all of the companies' U.S. employees. Still provide ongoing employment advice following U.S. launch.

**Multiple Pharmaceutical Companies Daily Employment Issues**

Representation of multiple pharmaceutical companies in connection with a range of daily employment issues. Recent work includes employment training, wage and hour matters, decision classifications and restrictive covenants.

**Nonprofit Organizations Daily Employment Counsel Needs**

Representation of multiple nonprofit organizations in connection with a range of daily employment counsel needs. Day to day advice and strategy related to the classification, hiring, discipline and firing of employees, including related rights & responsibilities, employee leave including those related to medical conditions, employee handbooks, internal investigations and day-to-day operational issues. Represent organizations before regulatory agencies including the Massachusetts Commission Against Discrimination, Division of Unemployment and Division of Industrial Affairs. Education and strategy related to all new employment laws.

**Private Equity Company Multi-State Employment Needs**

Advising a Boston-based private equity company in connection with its multi-state employment needs. Recent activity includes annual workplace trainings, multi-state employee handbook review/revisions, advice in connection with workplace investigations and employee separations. Defense of the company in connection with wage-based contract litigation arising out of the sale of a portfolio company. Have also handled litigation for a portfolio company arising out of a breach of restrictive covenants by a former partner/employee. Routinely advise the client in connection with employee diligence and employee transition issues related to various acquisitions and dispositions.

**Publicly-Traded Asset Management Company Outside Counsel**

Representation of a publicly-traded asset management company that owns and operates multiple boutiques across the United States. Serve as go-to outside counsel, working with General Counsel for over a decade. Strategize with the client and its affiliates on the best ways to acquire new talent, retain top talent, hire new employees and transition employees out of the company. Additionally draft and revise employment agreements throughout all phases of employment.

**Class Action Alleging Violations of State Wage and Overtime Laws**

Secured summary judgment for a national real estate investment and management company, which resulted in the dismissal of all claims in a class action alleging violations of state wage and overtime laws.

**Defense of Massachusetts' Class Action Wage and Hour Litigation**

Handled defense of Massachusetts' class action wage and hour litigation.

## Our Experience

The Goulston & Storrs Employment Group counsels clients regarding a wide range of employment matters. We keep clients well-informed of the rapid changes within this heavily regulated area and work closely with them to develop strategies that can improve workplace culture and minimize potential liability.

Our team assists clients in the areas of:

- Day to day employment advice
- Compliance with state and federal laws against discrimination, including Title VII, the ADA, the ADEA, and the FMLA
- Compliance with state and federal laws governing wage and hour matters, including the myriad of federal regulations under the FLSA
- Drafting and review of employee benefit plans, including cafeteria, disability, ERISA, health, insurance and qualified retirement plans
- Drafting and review of employee manuals and handbooks
- Employment training, ranging from cooperatively developed day-long trainings for key employees to individual sessions for problem employees to company-wide antidiscrimination training
- Drafting and review of executive compensation agreements including deferred compensation
- Review and counsel related to mergers & acquisitions
- Counseling and drafting related to restrictive covenants (from the perspective of both former and prospective employers)
- Counseling pertinent to employee terminations or large-scale reductions in force, including severance programs, agreements and compliance with the WARN statute
- Review and counsel related to stock option plans, including phantom stock arrangements, qualified and nonqualified and restricted stock appreciation rights
- Reviewing insurance policies and helping to procure necessary coverage provisions

We also conduct investigations of alleged or suspected employment law violations, enabling our clients to make assessments of potential exposure and to adopt appropriate policies and practices to deter any potential future misconduct.

In addition to providing our clients with the foregoing services, our firm provides trial advocacy related to a wide array of employment-related claims and disputes. See our "Employment Litigation" page in the Litigation section of this website for more information.

## Executive Compensation Services

With the support of our outstanding Tax Group, we represent employers in the commercial and non-profit sectors, helping them create effective compensation plans to motivate key players in all types of enterprises. Our lawyers advise clients regarding the federal, state and local income tax consequences of various types of compensation arrangements, ranging from nonqualified deferred compensation arrangements, including rabbi trusts and secular trusts, to complex equity incentive arrangements for participants in partnerships and limited liability companies.

Our tax advisors also provide advice with respect to compensation arrangements involving corporate stock, including nonqualified and qualified stock option plans, restricted stock plans, phantom stock and stock appreciation rights, keeping in mind the business, tax and financial reporting consequences of varying forms of executive compensation.

Consistent with the transactional focus of our Tax group, our lawyers often draft the necessary documentation to implement these compensation arrangements and employment agreements that provide for these incentives.

## ERISA/Employee Benefits Services

Members of our Employment Group often work closely with members of our Tax Group in creating, designing, drafting and reviewing benefit plans and arrangements, including plan documents, summary plan descriptions, and employee handbooks. We advise clients with respect to cafeteria plans including dependent care, flexible benefits and premium payment plans.

Our service teams also provide advice regarding employee benefit issues in the context of corporate mergers and acquisitions, and perform due diligence and COBRA compliance work in connection with corporate transactions and employer liquidations. We also provide legal advice to large 401(k) plans in the process of termination, often where the sponsor is in bankruptcy liquidation.

In crafting and implementing any compensation and benefits plan, we always try to find the simplest and most cost-effective solution that works best for a client, taking into account the inherent complexities of ERISA and employee benefits regulations. Our goal is to simplify the complex while explaining the costs and benefits of different alternatives in a user-friendly manner.

## Our Service Difference

Many of our core employment law clients have been with us for 15 years or more, reflecting our collective dedication to superior client service. We respond promptly to client inquiries and deliver advice in a prompt and efficient manner. That starts with choosing the right staff and employing the right tools and technology to handle each matter and to service each client optimally.

Employment matters transcend the law because they impact the day to day functioning of our client's businesses. We work together with our clients to shape responses that preserve and enhance corporate culture while avoiding liability.

This full-service approach to employment matters involves complete attention to all of the client's related needs, meaning that we provide proactive advice, preventive counseling and suggestions based on the lessons we learn defending cases, as well as introductions to other helpful professionals who may be able to help mitigate inevitable risks and losses.

Utilizing our deep experience, we also provide value to clients through early case assessments, which help to identify potential opportunities for quick and creative resolutions. We know that clients are not always looking to vanquish opponents, especially if they are frequent antagonists or sometimes collaborators. In all situations, we hold to the highest standards of professional integrity and conduct.

We understand and appreciate that a client is entrusting us with very significant issues. We take this responsibility very seriously and we return that trust with our most serious professional efforts.