SQUIRE PATTON BOGGS

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About D. Lewis

Lew Clark concentrates his practice on counseling and advocacy for employers in all types of labor and employment matters.

Lew is a trial lawyer who represents employers in a broad range of employment litigation and administrative matters throughout the United States that involve such issues as discrimination, harassment, retaliation, wage and hour law, employee benefits, employment contracts, defamation, employment intentional torts, wrongful discharge, unfair competition, trade secrets and unfair labor practices. He also represents employers in class action matters. In addition, Lew regularly represents employers in arbitrations relating to grievances under collective bargaining agreements and with respect to other traditional labor matters.

Lew counsels employers on compliance with all US federal and state labor and employment laws such as discrimination laws, the Americans with Disabilities Act (ADA), Family and Medical Leave Act (FMLA), Fair Labor Standards Act (FLSA), Worker Adjustment and Retraining Notification Act (WARN), Equal Pay Act, National Labor Relations Act (NLRA), whistleblower retaliation provisions of the Sarbanes-Oxley Act, and the Uniformed Services Employment and Reemployment Rights Act (USERRA).

He counsels employers on workplace harassment, workplace violence, terminations, mass layoffs, union avoidance, unfair labor practices, drug and alcohol testing, employment practices liability insurance, employee handbooks and policies, noncompetition agreements and executive employment agreements. Lew represents employers with respect to complex executive compensation arrangements and counsels employers with respect to negotiated and involuntary executive terminations. He regularly teams with the firm's corporate lawyers, counseling clients on employment and traditional labor law issues that arise amidst mergers, acquisitions, bankruptcies, restructurings, reductions in force and reorganizations.

Lew also performs comprehensive reviews of employment policies and practices and trains supervisors and other employees concerning hiring and firing, discrimination, harassment, managing employee leaves, religious discrimination and accommodation, union avoidance, wage and hour law compliance, technology use, and other employee relations issues. He also assists human resources and legal professionals in developing comprehensive legal compliance training programs designed to assist employers in minimizing the risk of employment-related liability. He is also a frequent lecturer for a variety of human resources organizations.

He has been listed in *The Best Lawyers in America* each year since 2006 and in *Chambers USA: America's Leading Lawyers* and *Southwest Super Lawyers*. Lew is recognized by *Arizona Business Leaders* 2017 as an influential leader in the business community.

Experience

- Obtaining complete dismissal of an ERISA breach of fiduciary duty claim on behalf of a public company relating to amendments to its tax-qualified pension plan.
- Following a jury trial in state court, obtaining a complete defense verdict and an award of lawyers' fees on behalf of a public company in a breach of contract claim brought by a former executive relating to a claim of equity ownership in the company.

- Following a AAA arbitration hearing on the merits, obtaining judgment in favor of a public company in a breach of contract claim relating to a severance agreement between the company and a former executive.
- Successfully defending a private health care company against claims of whistleblower retaliation.
- Following a AAA arbitration hearing on the merits, obtaining judgment in favor of a public company in a federal and Texas law claim relating to alleged discrimination and retaliation.
- Conducting multiple internal training programs relating to antidiscrimination, antiharassment and various workplace issues.
- Successfully defending a mining company against WARN Act and FLSA class and collective claims asserted as adversary proceedings against the debtor company and achieving a favorable resolution.
- Advising multiple public and private companies in connection with executive compensation matters and negotiating executive employment agreements.
- Advising multiple public and private companies in connection with executive terminations and negotiating severance agreements.
- Conducting multiple internal investigations of public and private company executives and officers relating to a variety of issues, including harassment, discrimination, retaliation, whistleblowing and employment-related compliance.
- Obtaining complete summary judgment on behalf of a regional telecommunications company in a hybrid Section 301 claim and obtaining affirmance on an appeal to the Sixth Circuit.
- Obtaining complete summary judgement on behalf of a public company's supplemental executive retirement plan in an ERISA claim adverse to a former executive and obtaining affirmance on an appeal to the Ninth Circuit.
- Successfully defending a national healthcare company in a series of lawsuits in Arizona and Texas brought by competitors alleging violations of non-competition, non-solicitation and confidentiality agreements.
- Successfully defending a global service provider against claims of retaliation under Sarbanes-Oxley and Arizona law.
- Obtaining on behalf of an Arizona-based healthcare company the denial of a temporary injunction in a case brought in state court in Texas by a competitor alleging violations of a non-competition agreement.
- Successfully defending a New York-based insurance agency in discrimination and retaliation case brought in federal court in Long Island.
- Successfully defended a New York City-based fast foods company in a multiple discrimination, retaliation and harassment cases brought in federal court in Manhattan.
- Successfully defending a Native American tribe in a whistleblower retaliation claim brought before OSHA.
- Obtaining complete dismissal in federal court of claims of discrimination against an Arizona public utility.
- Successfully defending an Arizona-based towing company in an audit of the company's FLSA compliance.
- Successfully defending an Arizona-based health care company in a DOL FLSA investigation.
- Counseling the Kingdom of Bahrain in revising and updating the Kingdom's labor laws as part of an overall labor market reform.

- Obtaining a complete defense verdict on behalf of a consumer products manufacturer in an age discrimination case tried before a jury in state court.
- Obtaining a complete defense verdict on behalf of an international HVAC equipment manufacturer in a race discrimination case tried before jury in state court.
- Obtaining summary judgment on behalf of a national real estate developer in an ADA case in federal court in Alabama.
- Obtaining summary judgment on behalf of an international defense contractor in an age discrimination claim arising from a reduction in force.
- Obtaining summary judgment on behalf of an international software company in an age discrimination case in federal court and obtaining affirmance of the judgment on appeal to the US Court of Appeals for the Sixth Circuit.
- Obtaining summary judgment on behalf of an international pharmaceutical manufacturer in an age and reverse national origin discrimination case in federal court and obtaining affirmance of the judgment on appeal to the US Court of Appeals for the Sixth Circuit.
- Representing a public regional transit authority in a federal FLSA collective action in which multiple employees in multiple positions alleged that the employer misclassified the employees as exempt from overtime and obtaining a favorable resolution that enabled the employer to properly treat the employees as exempt from overtime.
- Representing a multistate hair salon company in a Department of Labor audit involving a complete range of FLSA issues and obtaining a favorable resolution without litigation, enabling the employer to continue its lawful practices, including the proper treatment of critical managers as exempt from overtime and continuing permissible docking practices.
- Advising a national insurance carrier in conducting a comprehensive review of the employer's wage and hour law compliance, including proper overtime exemption determinations and pay practices.
- Conducting a comprehensive wage and hour compliance review for a regional telecommunications company.
- Obtaining summary judgment against the EEOC on behalf of an auto parts manufacturer in an ADA case in federal court.
- Successfully defending a publicly traded manufacturing conglomerate in a Sarbanes-Oxley whistleblower claim.

Credentials

Education

- The Ohio State University, J.D., *The Ohio State Journal on Dispute Resolution*, 1990
- The University of Akron, B.A., *cum laude*, 1987

Admissions

- Arizona, 2008
- Texas, 2011
- New York, 2002
- Ohio, 1990

Courts

- U.S. Supreme Court
- U.S. Ct. of App., Second Circuit
- U.S. Ct. of App., Fourth Circuit
- U.S. Ct. of App., Fifth Circuit
- U.S. Ct. of App., Sixth Circuit
- U.S. Ct. of App., Ninth Circuit
- U.S. Ct. of App., Eleventh Circuit
- U.S. Dist. Ct., Dist. of Arizona
- U.S. Dist. Ct., N. Dist. of Ohio
- U.S. Dist. Ct., S. Dist. of Ohio
- U.S. Dist. Ct., S. Dist. of New York
- U.S. Dist. Ct., E. Dist. of New York
- U.S. Dist. Ct., N. Dist. of Texas
- U.S. Dist. Ct., S. Dist. of Texas
- U.S. Dist. Ct., W. Dist. of Texas
- U.S. Dist. Ct., E. Dist. of Michigan
- U.S. Dist. Ct., N. Dist. of Indiana

Memberships & Affiliations

- Member, board of directors, Hushabye Nursery, 2023 to present
- Member, board of directors, Arizona Business & Education Coalition, 2010 to present

Recognitions

- Recognized by *AZ Business Magazine* as an AZ Business Leader 2019
- Recognized in *Chambers USA* for Labor & Employment in Arizona
- Recognized by *Super Lawyers* as a Southwest Super Lawyer
- Listed in *The Best Lawyers in America* for Employment Law – Management and Labor Law – Management
- Recognized by *Arizona Business Leaders* 2017 as an influential leader in the business community

Expertise

Services

- Labor & Employment
- Financial Services
- Restructuring & Insolvency

Industries

- Healthcare
- Life Sciences
- Retail

About our firm

One of the world's strongest integrated law firms, providing insight at the point where law, business and government meet. We deliver commercially focused business solutions by combining our legal, lobbying and political capabilities and invaluable connections on the ground to a diverse mix of clients, from long-established leading corporations to emerging businesses, startup visionaries and sovereign nations. More than 1,500 lawyers in over 40 offices across four continents provide unrivaled access to expertise.