

# Gladstone Michel Weisberg Willner & Sloane<sup>ALC</sup>

## Practice Area

### Labor and Employment

Gladstone Michel has a diverse Labor and Employment practice, representing employers in traditional labor law and virtually every aspect of employment law from pre-hire to post-termination. We provide our clients with effective advice and strategic counsel on how to avoid problems and implement best practices at every stage of the employer-employee relationship. We get to know you, your business and your industry, and assist you in devising solutions to employment problems that affect the efficiency and productivity of your workforce.

Our first goal is to keep our clients out of court. Changing workplace rules can threaten or even halt a company's programs for growth and competitive gains. We help management strategically direct employee relations, reduce the risk of costly employment litigation or disruptive government investigation, and advise corporations on complex labor issues. We have extensive experience in alternative dispute resolution procedures and often utilize ADR processes to achieve early and cost-effective resolutions. Several of our lawyers themselves serve as mediators and arbitrators. When litigation is necessary, we aggressively litigate our client's interests to the fullest.

Gladstone Michel's Labor and Employment Group is divided into five substantive practice teams:

- Employment Counseling
- Employment and Class Action Litigation
- Labor and Management Relations
- Workplace Regulatory Compliance
- Employment Practices Liability Insurance

### Employment Counseling

We spend significant time counseling clients on a day-to-day basis on how to avoid potential liability and how to comply with the myriad of federal and state employment laws.

## Practice Area

Our approach is individualized and results-oriented. We study our client's business and work as a team with corporate counsel and other key personnel to identify potential legal problems before they arise. We are sensitive to the extremes of emotion and stress that sometimes characterize employment law matters and litigation, and we work hard to provide practical advice and effective solutions on risk management, litigation avoidance, and other preventive strategies to assist employers with their daily needs to minimize, if not avoid, costly litigation. When a problem arises, we work closely with our clients and provide them with a thoughtful and honest assessment of their options; we weigh the risks and benefits associated with each option; then we develop a plan of action for achieving the desired result. Preventing litigation is always our first line of defense. Our lawyers understand that legal problems are business problems that have the potential to affect the productivity and morale of every employee.

We provide strategic advice and counseling on a variety of workplace issues, including but not limited to:

- Hiring and firing, separation and severance agreements;
- Discipline of personnel;
- Discrimination;
- Sexual harassment prevention and investigation, responding to harassment complaints;
- Wage and hour claims and class actions;
- Complicated employment cases involving both covered and uncovered claims;
- Affirmative action;
- Employee benefits and executive compensation;
- Reduction-in-force planning.

In addition, we tailor written policies and customize training programs to meet each client's specific needs. Major areas that we provide counseling and training programs are:

- Addressing and documenting disciplinary issues;
- Drafting and reviewing employee handbooks and personnel policies;
- Developing performance evaluations and monitoring systems;
- Identifying, investigating, addressing and preventing unlawful harassment and discrimination;
- Complying with wage and hour laws;
- Implementing voluntary and involuntary workforce reduction programs;
- Designing affirmative action plans and responding to audits;
- Drafting employment and non-competition agreements;
- Developing recruiting and retention policies.

## Practice Area

We think it's important that our clients stay ahead of the curve, so we keep them apprised of new legislation and recent developments in the law through training and effective communication, newsletters, electronic alerts, and periodic seminars.

### **Employment and Class Action Litigation**

Our approach to the practice of employment law is to emphasize prevention. We work with our clients on preventive maintenance and compliance so they can minimize claims, avoid litigation and reduce their legal costs. When litigation is unavoidable and we are not able to dispose of a case through well-crafted motions or effective dispute resolution, our labor and employment law attorneys have the skill and trial experience necessary to vigorously defend our clients in court. Our Labor and Employment Group also has the full support and resources of our Complex Litigation team members.

Our labor and employment practitioners are experienced in defending all types of individual and class-action claims brought by individual plaintiffs, the EEOC, DFEH, and other state and federal agencies. We have defended employers against a wide range of claims in state and federal courts at the administrative, trial and appellate levels, including but not limited to the following:

- Class and collective actions;
- Age, race, sex, disability, and other forms of prohibited discrimination;
- Sexual harassment;
- Wrongful discharge;
- Non-competition and trade secret claims;
- Defamation;
- Retaliation against a whistleblower;
- Intentional infliction of emotional distress;
- Invasion of privacy;
- Wage and hour claims;
- Breach of good faith and fair dealing;
- At-will employment claims.

Prevention is always our focus. Building partnerships with our clients and understanding their business objectives allow us to anticipate and help them to prevent employment law problems.

### **Labor and Management Relations**

Our attorneys have significant experience representing employers under the National Labor Relations Act and have successfully represented management in collective bargaining, grievance and arbitration proceedings, strike management, and unfair labor practices charges. We also advise and represent employers facing union organizing campaigns.

## Practice Area

We routinely represent clients in state and federal trial and appellate courts and before the U.S. Department of Labor, the California Division of Labor Standards Enforcement, the National Labor Relations Board, the Equal Employment Opportunity Commission, the Department of Fair Employment and Housing, the Employment Development Department, and a myriad of state and local administrative and alternative dispute resolution agencies.

Our attorneys have won several significant arbitrations involving employee discharges and matters of labor contract interpretation.

### **Workplace Regulatory Compliance**

Our Labor and Employment Group attorneys counsel clients with regard to the numerous statutes, regulations, codes and ordinances that govern the workplace. We assist clients with the following issues, including but not limited to:

- Wage and hour compliance;
- The Worker Adjustment and Retraining Notification Act (WARN);
- Reductions in Force (RIF);
- Family and Medical Leave Act (FMLA);
- Americans with Disabilities Act (ADA);
- Title VII;
- Age Discrimination in Employment Act (ADEA);
- Fair Labor Standards Act (FLSA);
- Workers' Compensation;
- Sarbanes-Oxley;
- Occupational Safety and Health Act (OSHA);
- Equal Pay Act;
- ERISA Violations.

### **Employment Practices Liability Insurance**

With so many cases of sexual harassment and unlawful discrimination in the news, the need for employment practices liability insurance (EPLI) coverage is greater than ever.

No company is immune from employee lawsuits. Gladstone Michel believes that EPLI insurance is a key component to protecting your business against claims of sexual harassment, discrimination, wrongful termination and other employment-related allegations.

Gladstone Michel is uniquely qualified to assist its labor and employment clients with their insurance needs. Our Insurance Practice Group is one of the most experienced in California, with attorneys who have an enviable track record of success and who know insurance coverage inside and out.

## Practice Area

Our Labor and Employment Group attorneys, with the assistance of the firm's Insurance team, can assist employment clients in determining the scope of EPLI coverage needed, liability options and claim deductibles. In addition, our attorneys can help clients tailor an EPLI program that suits their business needs and risk factors.

### Notable Engagements

- We successfully represented an international advanced technology company against age discrimination claims brought by three former employees who claimed that they had been discriminated against as part of a reduction in force. We obtained summary judgment on all counts, and the judgment was affirmed on appeal.
- We represented a retailer in an investigation conducted by the California Department of Fair Employment and Housing. A former employee alleged that our client discriminated against her on the basis of pregnancy. After a thorough investigation, the DFEH dismissed the complaint.
- We successfully obtained dismissal of an administrative claim against an aviation service provider in a claim of sexual and racial harassment.
- In an unfair labor practice proceeding involving back pay, we successfully cleared our client of all back pay liability and unfair labor practices charges and avoided having the employee reinstated.
- We defended a medical technology company in litigation brought by a former account executive who sued on the theory of fraudulent inducement to hire, a variety of contract claims, and age discrimination. We successfully obtained summary judgment on all counts.
- We regularly appear before the California Labor Commissioner in hearings regarding wages, hours, commissions, bonuses and working conditions.

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