

EMPLOYMENT AND LABOR

Armstrong Teasdale advises employment and labor clients across industry sectors no matter where their operations may be. We represent employers of all sizes around the world, from emerging companies to some of the world's largest listed companies, as well as governmental entities, educational institutions and nonprofits.

We provide proactive counseling and training, and are active in conducting thorough investigations and negotiating labor relations, as well as defending clients in court and before regulatory bodies.

We regularly represent clients in litigation involving:

- Class action and individual claims under Title VII of the Civil Rights Act, Americans with Disabilities Act (ADA), Age Discrimination in Employment Act (ADEA), Family and Medical Leave Act (FMLA), Fair Labor Standards Act (FLSA) and Worker Adjustment and Retraining Notification (WARN) Act, among others, as well as related state and local anti-discrimination laws
- Wrongful discharge and workers' compensation retaliation claims
- Claims arising under the Employee Retirement Income Security Act (ERISA) and the Consolidated Omnibus Budget Reconciliation Act (COBRA)
- Claims seeking to enforce confidentiality, noncompete and nonsolicitation agreements

Our experience includes preparing employee handbooks and advising management on policies. We provide training and counsel on employee issues and compliance with anti-discrimination statutes, regulations and ordinances of the federal and state governments; Affirmative Action Plans and Office of Federal Contract Compliance Programs (OFCCP) reviews; and Occupational Safety and Health Act (OSHA) compliance and investigations. We also advise employers on executive agreements, noncompete and trade secrets, severance agreements and workforce adjustment issues.

Our attorneys have a deep understanding of the National Labor Relations Act (NLRA) and the Railway Labor Act (RLA), and have appeared before regulatory bodies including the National Labor Relations Board (NLRB) and Equal Employment Opportunity Commission (EEOC). We advise employers concerning union avoidance, representational proceedings and elections; unfair labor practice investigations and hearings; contract negotiations; and labor arbitration hearings, including interest arbitration. Our experience also includes the administration of collective bargaining agreements and litigation to enforce them; and representation in injunctions against unlawful strike activity, picketing and work jurisdictional disputes.

EXPERIENCE

Defense Verdict in Employment-Related Jury Trial

Obtained defense verdict in Jackson County, Missouri, jury trial on claims of disability discrimination, employment retaliation, workers' compensation retaliation and whistleblower retaliation. The plaintiff alleged discrimination and retaliation following multiple job-related injuries and when defendant proposed termination following the plaintiff's failure to participate in the defendant's disability accommodation process.

Defense Verdict in Discrimination, Retaliation Case



Obtained a defense verdict in a Jackson County, Missouri jury trial on claims of race, gender, and national origin discrimination and retaliation. The plaintiff alleged that she did not receive a new contract as a school vice principal after making complaints of retaliation under the Missouri Human Rights Act.

Dismissal for Government Client on FOIA Claims

Obtained dismissal of Complaint alleging Freedom of Information Act (FOIA) violations in Illinois state court for a governmental client.

Summary Judgment for Fortune 100 Company on MHRA Claims

Obtained summary judgment on Missouri Human Rights Act (MHRA) claims in state court for a Fortune 100 company based on untimeliness and failure to exhaust administrative remedies.

Handled Multiple Investigations of Employment Discrimination, Employee Misconduct and Whistleblower Conduct

Conducted investigations for multiple clients related to complaints of employment discrimination, harassment and other allegations of conduct related to state and federal discrimination laws in addition to allegations concerning employee misconduct and whistleblower activity. Authored comprehensive investigative reports and executive summaries, and presented to executives and board members.

Successfully Defended College in Discrimination Case Before the EEOC

Successfully defended EEOC charges alleging race and gender discrimination on behalf of private liberal arts college.

Defense Verdict for Fortune 500 Logistics Company in Race Discrimination Case

Served as lead counsel in jury trial where the jury returned a defense verdict for Fortune 500 client in Title VII race discrimination case.

\$65 Million Sale of Specialty Home Furnishings Business

Represented the seller, a manufacturer of specialty home furnishings, in its acquisition by a leading brand aggregator in numerous different consumer products spaces. The sale, for \$65 million in cash and equity, represented the buyer's first acquisition in the home furnishings space. We also provided counsel on employment, employee benefits, tax, patent, and intellectual property aspects of the transaction.

Obtained Defense Verdict for School District on Discrimination, Retaliation Claims

Obtained a full defense jury verdict in Jackson County, Missouri, circuit court for a school district on claims of race and disability discrimination and retaliation under the Missouri Human Rights Act, and retaliation under Missouri's public employee whistleblower protection statute. The plaintiff, who had been terminated from employment following discovery of time fraud, sought more than \$500,000 in damages.

Representation of Logistics Provider in Noncompete Case

Represented a national third-party logistics provider in action to enforce noncompetition provision against a former employee.

Defense of Global Direct Sales Company in Breach of Contract Case

Represented a global direct sales company in connection with breach of contract claims alleging that members of its independent contractor sales force were prohibited from recruiting salespeople from other direct sales companies.

Severance Package Negotiation for Top Executive

Negotiated an appropriate severance package for a top salesperson in the construction materials industry.

Counsel to Multinational Hedge Fund on Post-Employment Obligations

Counseled multinational hedge fund and financial services company regarding post-employment obligations of employees.

Successful Representation of an Executive in a Wrongful Termination Case



Represented an executive in a wrongful termination case which settled during trial.

Vindicated CEO Terminated For “Cause” and Denied All Compensation

Successfully represented former CEO of publicly traded international business in dispute arising from the company’s termination of our client “for cause” and denial of all incentives and other compensation due to the client.

Representation in Employee Terminations, Alleged Rutan Violations

Represented the state of Illinois in disputes involving employee terminations and alleged Rutan violations.

Defense of Chicago Manufacturer Against Wage Payment Action Claims

Successfully defended a Chicago manufacturer against Wage Payment Act claims brought by its former president.

Prosecution of High-Profile Embezzlers

Prosecuted embezzlers, including the partner of a real estate venture, the treasurer of an energy company and the bookkeeper of a significant business.

Prosecution in Matter Involving Breach of Employment Agreement

Prosecuted and defended claims for breach of an employment agreement.

Representation of National Aviation Insurance Broker in Noncompete, Nonsolicitation Case

Represented a national aviation insurance broker in action to enforce contractual noncompete and nonsolicitation provisions against a former employee.

Summary Judgment for School District in Disability Discrimination Case

Obtained summary judgment for a public school district in a disability discrimination case under the Missouri Human Rights Act. The plaintiff argued that a disability prevented her from performing job duties that became necessary due to distance learning models when schools were closed due to COVID-19. Although the job duties were not explicitly discussed in the job description for her position, we demonstrated that the job duties were essential, performed by all other employees in the department, and there was no other vacant position for which the plaintiff was qualified.

Successfully Defended University, Individual Against Missouri Human Right Act Claims

Secured a full defense verdict for a university and individual on multiple claims alleging violations of the Missouri Human Rights Act. After a one-week trial in the City of St. Louis Circuit Court, the jury returned verdicts in favor of our client on all counts.

Defense Jury Verdict for Employer in Discrimination Case

We obtained a total defense jury verdict for an employer, in the Circuit Court of Jackson County, Missouri, in a case seeking approximately \$500,000 in damages based on alleged race and age discrimination and constructive discharge under the Missouri Human Rights Act. The plaintiff was a former human resources employee who alleged that she was demoted to a non-human resources assignment based on her age and Hispanic race in an effort to force her to quit employment. The defendant denied that any protected characteristics played a role in the assignment and that the plaintiff quit for a better employment opportunity.

Summary Judgment in \$850,000 Employment Contract Dispute

Obtained summary judgment in Missouri state court on behalf of an employer in the health care and life sciences field. A former employee had sought over \$850,000 in alleged unpaid bonuses.

Summary Judgment for Hospital in FMLA Retaliation Suit

Obtained summary judgment ruling for a hospital in the U.S. District Court for the Eastern District of Missouri. The lawsuit brought by former employee alleged retaliation under the Family and Medical Leave Act.

Successfully Defended School District in Termination, Discrimination Suit



Successfully defended school district in a wrongful termination and age discrimination lawsuit.

Dismissal of Suit for Public Entity in the Education Industry

Won a dismissal after removal to federal court on behalf of a public entity and its employees for failure to exhaust administrative remedies with proper administrative agency.

Acquisition of Franchise Restaurants

Represented a private investment firm in its acquisition of franchise restaurant outlets across multiple states. Handled the acquisition agreement and other operative documents, due diligence, franchise documentation and licensing.

Secured Withdrawal of OSHA Citations for Manufacturing Client

Defended company that received two willful citations under OSHA lead standard when manufacturing with leaded brass. OSHA withdrew both willful citations.

Successfully Resolved Matter for Company in OSHA Severe Violator Enforcement Program

Defended company placed in OSHA Severe Violator Enforcement Program (SVEP) involving combustible dust explosion and serious injuries. The case was settled with no willful violations and the company was removed from SVEP.

Resolution of Fraud, Wrongful Termination, Other Claims

Obtained a favorable result in a jury trial in the United States District Court for the Western District of Missouri on behalf of an international corporation that had been sued by a number of former employees for fraud, wrongful termination in violation of public policy, and a number of other tort claims. After trial, the remaining claims settled for a small fraction of the settlement demand, saving the client hundreds of thousands of dollars.

Defense, Resolution of Class Action Lawsuits under Fair Credit Reporting Act

Successfully defended and resolved a number of class action lawsuits against major corporations brought under the Fair Credit Reporting Act (FCRA) for alleged violations of the provisions of the FCRA applicable to employment background checks.

Representation in Class Action Involving Biometric Information Privacy Act

Represented corporate client in employment- related class action involving the Illinois Biometric Information Privacy Act.

Representation of Labor Union Against Various Claims

Represented a labor union in connection with allegations of defamation, intentional infliction of emotional distress and related business torts.

Preliminary Injunction in Discrimination Investigation Matter

Obtained a preliminary injunction order in federal court enjoining the Missouri Commission on Human Rights from investigating allegations of discrimination filed against client.

Citations Vacated for Client in OSHA Evidentiary Hearing

Defended company in OSHA evidentiary hearing in which company asserted that installation of wood trusses constituted steel erection. Administrative Law Judge agreed and vacated the citations.

Defended Client in Waste Regulation Action Affirmed on Appeal

Defended client in an action against the Missouri Air Conservation Commission. The judge invalidated Missouri medical waste, industrial waste and sewage sludge incinerator regulations in the first of the “no stricter than” cases brought under the Missouri Clean Air Act. The decision was affirmed on appeal by the Missouri Court of Appeals.

Representation of Manufacturing Company in Soil and Groundwater Cleanups



Represented manufacturing company in soil and multi-plume groundwater cleanups of PCBs and solvents in Missouri. Persuaded EPA to pursue separate source of groundwater contamination. Site is located in close proximity to drinking water wellfield.

Favorable Ruling for University Granting 11th Amendment Immunity

Obtained favorable ruling in U.S. District Court for the Eastern District of Missouri granting employer 11th Amendment immunity from future litigations.

Partial Summary Judgment in FLSA Misclassification Action

Obtained partial summary judgment on behalf of a client in a Fair Labor Standards Act (FLSA) misclassification collective action, reducing the potential scope of class and the client's potential exposure by over 90%.

Defended Company Performing Cleanup at Superfund Site

Defended company who performed \$28 million environmental cleanup of PCBs, asbestos and TCE at Superfund site, formerly used for automotive manufacturing, under Administrative Settlement Agreement and Order on Consent. The site is located in a residential area and will be transformed into a recreational facility.

No Negligence in MSHA Fatality

Persuaded MSHA to make a determination of no negligence in a mine fatality in which an employee became pinned inside a piece of equipment.

Withdrawal of Unfair Labor Practice Charge Against Manufacturer

Successfully defended a pet food company against an unfair labor practice charge filed with the National Labor Relations Board. In filing the charge, a union alleged the client unlawfully disciplined and discharged one of its employees because of his support for the union during its organizing campaign. Following a vigorous defense against the allegation, the union withdrew the charge.

Six Citations Vacated for Electrical Equipment Manufacturer

Defended manufacturer of electrical equipment in OSHA evidentiary hearing where issues all involved possible electrocution hazards associated with high voltage equipment. The Administrative Law Judge vacated all six citations that were issued.

Favorable Result for Company Cited in Violation of OSHA Silica PEL

Defended company that received citation alleging exceedance of OSHA's silica PEL. Convinced OSHA the sample results were invalid, resulting in withdrawal of citation.

Decertification of Collective Action, Denial of Class Certification, Partial Summary Judgment in Overtime Misclassification Complaint

Secured collective action decertification and denial of class certification for a client in U.S. District Court for the Eastern District of Missouri, regarding a complaint in which current and former employees asserted overtime claims based on alleged misclassification as exempt employees under the Fair Labor Standards Act and under the wage and hour laws of the states of Missouri and Washington.

Defense Verdict Regarding Unpaid Overtime Allegations

Secured a defense verdict in a Jackson County, Missouri, jury trial regarding a former employee's allegations of unpaid overtime, in violation of the Missouri Minimum Wage Law.

No Willful Violations in Case Involving Availability of Rescue Boat

Defended company in OSHA evidentiary hearing involving facility and availability of rescue boat. The Administrative Law Judge determined violation was not willful.

Favorable Result in FLSA Employee Misclassification Case



Achieved a favorable trial result in the United States District Court for the Western District of Texas on behalf of a client accused of misclassifying a significant portion of its workforce as exempt from the overtime requirements of the Fair Labor Standards Act (FLSA) after several years of litigation.

Defense Verdict in Jury Trial for School District

Obtained a defense verdict in a Jackson County, Missouri jury trial in favor of our client, a school district. The plaintiff alleged reverse race discrimination, harassment and retaliation related to his termination as a constructive services department manager. The court entered summary judgment on the harassment and retaliation claims just before trial. The jury returned a unanimous defense verdict on the reverse discrimination claim.

No Negligence in MSHA Mine Fatality

Persuaded MSHA to make a determination of no negligence in a mine fatality in which the employee was struck by equipment being hoisted.

Defended Publicly Traded Company in Cleanup of VOCs, Lead

Represented publicly traded company performing environmental cleanup of VOCs and lead under the Unilateral Administrative Order at a wildlife refuge in Illinois that was a WWII ordnance plant.

Successfully Defended Contractor in Arbitration Against Seven-Figure Claim

Defended general contractor in seven-figure claim brought by an asbestos contractor in arbitration. Arbitrator's award to asbestos contractor was 5% of the amount sought and was less than the general contractor had offered in settlement.

Reduced Penalties for Dairy Farm in Fatalities Following OSHA SVEP Placement

Defended dairy farm in two separate fatality cases that resulted in repeat OSHA citations and placement on OSHA Severe Violator Enforcement Program (SVEP). At conclusion of negotiation, company was removed from SVEP and penalties were cut by 75%.

Summary Judgment in Employment Discrimination Case

Secured summary judgment in the Circuit Court of Cape Girardeau County, Missouri, for a university client in a heavily contested employment discrimination case. A former university coach claimed she was discriminated against based on gender stereotyping and implicit bias. Following numerous depositions and testimony from expert witnesses on both sides, the Court granted summary judgment for the university on all counts.

Investigated, Counseled and Presented on Topics Related to Title IX

Conducted investigations concerning alleged violations of Title IX. Assisted in drafting, revising and advising on Title IX policies, and presented trainings to prepare higher education staff to conduct Title IX investigations.

Summary Judgment on Judicial Estoppel Grounds in Discrimination, Retaliation Case

Obtained summary judgment in the Circuit Court of Jackson County, Missouri, on judicial estoppel grounds to prevent a client's former employee from proceeding with claims of discrimination and retaliation under the Missouri Human Rights Act. We persuaded the court that the plaintiff's failure to disclose the underlying charges of discrimination during his earlier Chapter 13 bankruptcy action constituted an inconsistent statement that prevented him from asserting such claims going forward.

No Willful Violations for Publicly Traded Company

Defended publicly traded company in a two-week OSHA evidentiary hearing involving multiple alleged willful violations at a meat plant. At the conclusion of the hearing, the Administrative Law Judge determined there were no willful violations.

Defended Magnesium Recycler in EPA Cost Recovery Action

Defended magnesium recycler in EPA cost recovery action in Pennsylvania including negotiating consent decree and private party allocation.

**Dismissal of Wrongful Termination Suit for University**

Obtained dismissal of lawsuit brought in the U.S. District Court for the Eastern District of Missouri by the former employee of a university, who claimed wrongful termination in violation of the Americans with Disabilities Act and Missouri Human Rights Act.

Secured Withdrawal of OSHA Citations Relating to Hexavalent Chrome Standard

Defended company that received 14 citations under OSHA's hexavalent chrome standard, including alleged exceedance of PEL. OSHA withdrew 12 of 14 citations.

No Prosecution for Client in Multiple Fatality Case Referred to the U.S. Attorney

Defended a company in a multiple fatality case that resulted in an OSHA referral to the U.S. Attorney for prosecution. After meeting with the U.S. Attorney, no prosecution resulted.

Citations Vacated for Client in Fatality Involving Construction Crane

Defended company in an OSHA evidentiary hearing involving a fatality on a crane. At the conclusion of the hearing, the Administrative Law Judge vacated all citations.

Enforced Arbitration Agreement for Securities Company

Successfully enforced an arbitration agreement against a current employee of a large securities brokerage company in St. Louis County Circuit Court, resulting in withdrawal of the employee's attorney and dismissal of the employee's claims.

Multimillion-Dollar Settlement for Publicly Traded Railroad Facing Environmental Claims

Obtained multimillion-dollar settlement for a publicly traded railroad in environmental claims involving diesel fuel and PCB spills, and numerous signal battery disposal sites against predecessor in interest.

Successfully Defended Used Oil Recycler Following Alleged Sale of Contaminated Oil

Defended used oil recycler in sale of alleged contaminated oil to customer. Jury awarded recycler all costs for unpaid shipments of oil, and awarded \$3,000 to customer after four-day trial.

Successful Outcome in Cases Related to Misinterpretation, Misapplication of Lockout/Tagout Standard

Defended numerous employers in cases in which OSHA was persuaded that it misinterpreted or misapplied the lockout/tagout standard.