



Katten

Katten Muchin Rosenman LLP

EMPLOYMENT LAW AND LITIGATION

Our Clients

Katten's Employment Law and Litigation attorneys represent management in all aspects of labor, human resources and employment law. Our clients—which range from small start-up businesses to Fortune 50 companies—operate in a variety of industries, including manufacturing, finance, technology, entertainment and health care.

Our Services

We provide clients with a full complement of employment-related legal services, from daily preventive counseling to defense of major lawsuits. Our attorneys represent employers in federal and state courts and before administrative agencies in cases filed under federal and state employment laws, including individual and class action discrimination suits, wage and hour litigation, ERISA disputes, breach of employment contract suits, and restrictive covenant litigation.

Because our clients must contend with an increasingly litigious workforce, our attorneys have developed new approaches to handle disputes to minimize legal costs while ensuring favorable outcomes. We offer experienced representation in traditional defense strategies and in alternate dispute resolution. We develop valid and effective arbitration and mediation agreements and procedures to avoid costly litigation of employee claims, and we represent employers at labor and employment arbitration, mediation and conciliation proceedings.

RECOGNIZED BY

- *BTI Litigation Outlook 2018*
 - Complex Employment Litigation Honor Roll
- *The Legal 500 United Kingdom*
 - Human Resources – Employment: Employers 2017
- *The Legal 500 United States*
 - General Commercial Disputes 2019
 - Workplace and Employment Counseling 2019

Our employment attorneys believe that effective representation of clients requires attentive, ongoing counseling to prevent employment problems. We advise employers on employment law compliance and human resources issues, and we help them develop policies and procedures to minimize their risk of liability for employee claims. Our attorneys offer invaluable counsel during business transitions including general reductions-in-force, focused downsizing and sophisticated corporate deals.

Many of our clients employ individuals represented by a union, while others face increasingly active efforts to organize their workers. We offer experienced representation in all aspects of the labor-management relationship, including counseling management on how to achieve a union-free workplace, negotiating collective bargaining agreements with unions, defending unfair labor practice charges, and handling strikes, lockouts and other work stoppages. Today's business environment also requires employers to be increasingly vigilant of possible misconduct at the workplace. Katten's Employment Law and Litigation team can

greatly enhance this necessary function by conducting investigations into suspected misconduct and by guiding employers through their own investigations to maximize efficiency and minimize legal risk.

Particularly sensitive to business realities, our attorneys listen to each client's unique concerns and focus on solving employee-related problems before they become costly disputes. Sound business judgment, guided by experience in virtually every area of employment law and employment-related litigation, means that Katten's Employment Law and Litigation team delivers intelligent, timely and cost-effective advice in all matters.

Our Experience

- Representation of a Midwest manufacturing company in an age and disability discrimination suit in federal court. The plaintiff, formerly employed as the company's national sales engineer, claimed that he had been discharged because he was 57 years old and had childhood polio. The court granted motion for summary judgment, ruling that the plaintiff failed to prove he was disabled under the Americans with Disabilities Act, and could not establish a *prima facie* case under the Age Discrimination in Employment Act.
- Representation of a nonprofit facility that cares for developmentally disabled children and adults, and on behalf of two of its managers, against allegations that the defendants had discriminated against the plaintiff based on race as well as an actual or perceived disability, retaliated against her for opposing discrimination, and violated the Family and Medical Leave Act by not permitting her to take intermittent leave for a medical condition. Obtained summary judgment in favor of the client.
- Representation of a boutique trading firm against allegations by its former general counsel that the firm breached an oral agreement by failing to deliver a sizable year-end bonus and stock options, and that it fraudulently induced him to accept employment by misrepresenting its financial condition and business plan. Persuaded a federal judge to dismiss all claims. The judge accepted Katten's arguments in full that the firm's alleged statements did not constitute an enforceable agreement, that it did not have the requisite intent to defraud the plaintiff, and that the plaintiff waived his claim by remaining employed with the firm for several months after the alleged fraud had occurred.
- Representation of a major Chicago-area hospital and two of its senior administrators in a \$6 million suit filed by a pathologist claiming retaliatory discharge, breach of contract, defamation, and violations of ERISA and the Illinois Wage Payment and Collection Act. The court granted summary judgment on all counts, ruling that the hospital did not breach its by-laws by terminating the pathologist's services before ending his medical staff privileges. The court also rejected the physician's retaliatory discharge and defamation claims, broadly applying the immunity provisions of the Illinois Hospital Licensing Act and the Illinois Medical Studies Act. The decision strengthens the ability of health care providers to make medical staffing decisions that cannot later be second-guessed by a judge or jury.
- Defense of a major Chicago hospital against a disparate impact pregnancy discrimination suit brought by the Equal Employment Opportunity Commission (EEOC) on behalf of all pregnant applicants and first-year employees who had been rejected or terminated by the hospital over the course of more than 10 years. Obtained a highly favorable settlement through aggressive defense that involved a small payment to only one former employee.
- Representation of a television industry client in a federal age discrimination case brought by a senior high-level executive. Obtained summary judgment as affirmed by the Seventh Circuit Court of Appeals, accepting Katten's position that comments the plaintiff's manager made in which he adversely referred to aging employees shortly before terminating the plaintiff were irrelevant.
- Successful representation of a major manufacturer in a precedent-setting case addressing an employer's liability for sexual harassment by its supervisors. First obtained summary judgment from the federal district court in Chicago, which dismissed not only the sexual harassment claim but also the plaintiff's additional claims of retaliation under Title VII and intentional infliction of emotional distress under state law. The plaintiff's appeal was consolidated with another sexual harassment case (*Ellerth v. Burlington Industries*) and heard *en banc*

by the Seventh Circuit to resolve the standards governing company liability for a supervisor's sexual harassment. In a remarkable 203-page decision, affirming in part and reversing in part the district court's judgment, the appeals court laid the groundwork for US Supreme Court review of this important issue. Successfully secured a very favorable settlement for client, while the companion case proceeded to the Supreme Court.

- Successful representation in a case in which client had terminated an employee who sought to return to work after an indefinite absence that had lasted nearly five months, raising difficult issues about the extent of an employer's duty of reasonable accommodation. Secured a complete victory for client without the need for a trial.
- Representation of an Atlanta-based client, that refers physicians for temporary fill-in positions ("*locum tenens* coverage") or for permanent positions with health care facilities, clinics and medical practice groups, in connection with an initial determination by the state of New York that it was the employer of such physicians and thus liable for unemployment insurance contributions. Katten immediately appealed that determination, which could have required the client to also cover physicians for unemployment insurance, workers compensation, and disability insurance coverage in several states. Persuaded the New York Department of Labor to reverse its initial determination to find that the physicians were independent contractors, not employees, relieving client from any responsibility for making contributions for such coverages.
- Representation of a technology company in connection with an audit in which it was discovered that several job groups were misclassified as exempt under the Fair Labor Standards Act. Working with the company's general counsel and human resource officer, Katten helped client restructure its compensation system for these employees to achieve compliance with the law and avoid costly litigation and potential liability.
- Representation of a Chicago-based money management holding company in an action brought against a former principal of a subsidiary firm who resigned and started a competing business, soliciting clients and employees of her former firm

and improperly utilizing its confidential and proprietary information. Katten was able to stop the former principal's improper conduct and unfair competition without the need for extended litigation.

- Representation of a company that operates a national chain of senior assisted living facilities in its dealings with a union that represented employees at one such facility. After lengthy negotiations with the union, the parties signed a collective bargaining agreement. Shortly before that agreement expired, the employees' dissatisfaction with the agreement and the union culminated in a petition to decertify the union. With Katten's guidance, the decertification petition resulted in an election at the National Labor Relations Board in which the employees overwhelmingly rejected continued representation by the union.
- Representation of a distributor of alcoholic beverages that abruptly terminated operations and laid off all of its employees when its primary supplier terminated its agreement with client. The union representing the employees claimed that client had violated the WARN Act, the federal statute requiring 60 days advance notice of a plant closing. After a two-day hearing, an arbitrator concluded that client had demonstrated that it fell within the "unforeseeable business circumstances" exception under the WARN Act and dismissed the union's claim.
- Successful defense of a \$4 million class action brought by 350 former employees who alleged violations of the federal plant closing law (WARN Act) and state wage payment law. Obtained summary judgment after persuading the plaintiffs to drop their state law claims and defeating their repeated efforts to expand the class. Despite the employer's failure to provide any advance notice of its plant closing, prevailed by showing that its decision to close the plant was due to unforeseeable business circumstances.
- Representation of a client in connection with sexual harassment claims brought by an employee who claimed that her supervisor's repeated harassment had forced her to resign. Persuaded the court that application of recent Supreme Court decisions warranted summary judgment because the alleged harasser did not take a tangible job action against the employee, because the employee failed to report

the activity immediately, and because the employer took prompt remedial action once it became aware of the alleged problem.

- Defense of a class action in which the client faced millions of dollars in potential exposure for unpaid overtime, penalties and plaintiffs' attorneys' fees. Through focused, aggressive defense, forced the plaintiffs to settle for less than two percent of the damages they had sought and take nothing for their legal fees.
- Representation of a mid-sized manufacturing company in connection with a series of reductions in

force that resulted in dozens of employees being terminated. Katten's guidance and counseling enabled the client to avoid a single claim being filed.

- Representation of a former employee in successfully bringing an arbitration against former employer for breach of contract for failure to pay a bonus mandated in the employee's contract.
- Representation of a former employee in successfully bringing an arbitration against a former employer for breach of contract for failure to pay contractually mandated separation payments and vesting of equity awards.

