

Labor, Employment & Benefits

Our Labor, Employment & Benefits Team knows you need practical answers to employment issues and litigation so that you can maintain focus on your core business. We are committed to understanding your business goals and preferences, and team with you to provide cost-effective, strategic and creative advice, and litigation representation.

Our hallmark is a collaborative relationship between you and us to obtain your desired results, while enhancing the workplace environment for both management and staff. And, if you want alternative fee arrangements, we are at the forefront in creating predictable and efficient budgets, which allow for you to better forecast and manage your own budgeting. We minimize costs through early case assessment, collaboration regarding budgets and evaluation of the risks and benefits of different approaches to the issue or case we are handling for you. We offer flat fee programs to respond to demand letters, most agency charges and single-plaintiff lawsuits. In addition, we can create retainer arrangements for ongoing advice work, as well as manager and employee training.

Employment

With experienced employment attorneys in our Seattle, Portland and Anchorage offices, we can handle any employment issue you are facing. Relying on our broad and diverse experience, we tailor our advice and representation to your industry, including retail, manufacturing, petroleum, financial services, hospitality, environmental, marine, technology, professional and engineering services, to name a few. We keep current on developing local laws and regulations, and often represent clients affected by proposed amendments to local laws and regulations. We provide updates on current issues through our annual “Best Practices for Best Employers” seminars, periodic “Breakfast with the Employer Adviser” seminars and through our emailed Employer Adviser legal updates. We offer clients our Employer Adviser Pocket Adviser series, with topics such as “Investigating Employee Misconduct,” “Sexual Harassment,” “Substance Abuse in the Workplace” and “Workplace Violence – Managing the Threat.” We also offer a video and online training series on employer rights and responsibilities.

Litigation

We know the court room and continue to enjoy remarkable success in achieving favorable results, as defined by our clients. Whether you are faced with a single-plaintiff lawsuit or a bet-the-bank class action, we have successfully obtained orders granting summary judgments and denying class certification. We have had great success trying cases before jurors, judges and arbitrators.

Labor

We know union issues and provide strategic thinking in addressing union organizing and negotiations involving collective bargaining agreements. We also have experience representing employers in arbitrations, NLRB investigations and proceedings, and campaigns related to strike prevention.

Recognition

Clients tell us we provide “top notch,” “timely,” “responsive” and “cost-effective” employment advice, tailored to the specific client’s needs. For several years, *Chambers[®] USA: America’s Leading Lawyers for Business* has recommended us for our “broad base of highly qualified attorneys” who “manage their resources effectively and have broad expertise in labor and employment matters.” They also commend us for the ability to “recognize who their client is and the type of practical response needed,” and our “great litigation know-how, which puts this group on the map.” One client enthuses, “I would rate them at the top of the scale.” In a survey of America’s in-house counsel from top companies like Nordstrom, Lane Powell was named a “Go-To Law Firm[®]” for Labor and Employment. In addition, we have been highly ranked in the *U.S. News – Best Lawyers[®]* annual “Best Law Firms” survey for our work in labor and employment and employee benefits law, and labor and employment litigation. We want to be your go-to firm and will do what we can to meet your every need and exceed your expectations.

Experience

Swaw v. Safeway, Inc.

Case No. 2015 WL 7431106 | U.S. District Court, Western District of Washington

Represented employer sued for disability discrimination based on medical marijuana use; successfully obtained order granting judgment on the pleadings, upholding termination.

Wallace v. Lockheed Martin*

U.S. District Court, Eastern District of Washington

Obtained summary judgment for employer in litigation alleging gender discrimination.

Harrison v. Mason Co. Fire Dist. No. 2 *

Mason County Superior Court

Represented employer in disability discrimination case brought by firefighter.

Wright v. Colville Tribal Enterprise Corporation*

Case No. 159 Wn.2d 108, 147 P.3d 1275 | Washington Supreme Court

Successfully moved to dismiss race discrimination claim under the WLAD on tribal sovereign immunity grounds; affirmed on appeal.

Joni Summers v. Extendicare Homes, Inc.

Case No. 3:11-cv-128-BR | Portland, Oregon

Represented the defendant against a claim brought by a former employee who alleged whistleblowing violations and wrongful discharge.

Brooks v. Nordstrom, Inc.

Defense verdict for Nordstrom in disability discrimination case.

Lieberg et al v. Bloomin' Brands, Inc. d/b/a Outback Steakhouse

Case No. 2:15-cv-01307 | U.S. District Court, Western District of Washington

Obtained dismissal for franchisor in Title III public accommodation claim.

Brown v. The Home Depot

Case No. 2:14-cv-00896 | U.S. District Court, Western District of Washington

Off-duty recreational/medical use of marijuana wrongful discharge claim; motion to dismiss granted.

Calence, LLC v. Dimension Data et al

Case No. 2:06-cv-00262 | U.S. District Court, Western District of Washington

Trade secret and unfair competition claim representing plaintiff; defeated all defendants' motions for summary judgment and obtained settlement during jury trial.

Kendall and Rahlfs v. The Home Depot, Inc.

Case No. 3AN-06-13817 | U.S. District Court, District of Alaska

Obtained summary judgment against both plaintiffs (former store managers) alleging age and disability discrimination.

Big Box Retailer v. Amazon.com

King County Superior Court

Represented plaintiff in employee raiding and trade secret case

Guijosa v. Big Box Retailer

Washington Supreme Court

Race discrimination defense verdict upheld; published opinion.

Harmon v. Home Depot

U.S. Court of Appeals, Ninth Circuit

Affirmed defense judgment in sexual harassment and hostile work environment case; published opinion.

TruGreen Landcare LLC v. Davis and Northwest Landscape Services of Oregon, LLC

Oregon Superior Court

Represented employer and employee sued for violation of noncompetition agreement.

Diamond Parking, Inc. v. Lindsay

King County Superior Court

Represented employer who sued to enforce non-competition agreement.

Alexander v. GMRI d/b/a Olive Garden Restaurants*

Spokane Superior Court

Successfully compelled arbitration of wage and hour claims and defeated petition for discretionary review.

Patch v. Seattle Seahawks

Case No. 2:13-cv-00612 | U.S. District Court, Western District of Washington

Defended the Seattle Seahawks against claims by an employee that he was retaliated against, after alleging that his supervisors had used a racial epithet.

Claffey v. Starbucks Corporation

Snohomish County Superior Court

Defended Starbucks against a retaliation and FMLA interference claim made by a former manager.

Turnquist v. Nordstrom, Inc.

Case No. 2:15-cv-00710 | U.S. District Court, Western District of Washington

Defended Nordstrom against allegations levied by a former employee of nationwide class action and personal employment claims asserting that Nordstrom accounting methods violated law and employees reporting errors were discharged.

EEOC v. Global Horizons, et. al.

U.S. District Court, Eastern District of Washington

Obtained favorable comprehensive summary judgment ruling on the matters for all claims; obtained ruling awarding employer clients all attorneys' fees and costs incurred in the litigation.

EEOC v. Carl Buddig & Co.*

U.S. District Court, Northern District of Illinois

Won motion to exclude class of claimants (405 people) based on EEOC's discovery tactics and thereafter negotiated much more favorable resolution to the case.

EEOC v. United Airlines*

U.S. District Court, Northern District of Illinois

Represented airline employer in Title VII sexual harassment and race discrimination case, as well as two separate ADA discrimination/failure to accommodate cases; resolved cases by negotiating favorable consent decrees.

New Wave Group AB Acquisition of Ahead, Inc.

Advised New Wave Group AB in its strategic acquisition of Ahead, Inc., a Massachusetts-based headwear and apparel company.

New Wave Group AB Acquisition of Paris Glove of Canada, Ltd.

Advised New Wave Group AB in the cross-border acquisition of Paris Glove of Canada Ltd, a Montreal, Canada-based manufacturer of gloves and golf apparel.

Ah You v. Home Depot

Case No. 3:12-cv-00172-HRH | U.S. District Court, District of Alaska

Defended employer against wrongful termination, national origin discrimination, and violation of the covenant of good faith and fair dealing claims.

American Campus Communities Oregon Bureau of Labor and Industries Prevailing Wage Investigation

Representing America Campus Communities in an investigation by the Wage and Hour Division of the Oregon Bureau of Labor and Industries (BOLI) concerning prevailing wages that were allegedly not paid to employees in connection with the construction of student residences on the campus of Southern Oregon University in Ashland, Oregon.

Bonus v. Tanana Chiefs Conference, Inc.

Obtained summary judgment for Tanana Chiefs Conference, dismissing employee's wrongful termination claim and achieving substantial award of costs and attorney's fees against the plaintiff.

R.B. v. Assets, Inc.

Obtained dismissal in alleged race discrimination claims against employer.

M.C. v. Assets, Inc.

Defended employer against claims of national origin and disability discrimination.

Deter v. Sterling Savings Bank

Defended Sterling Savings Bank against a charge, filed with the Oregon Bureau of Labor and Industries, in which a former employee alleged discrimination, retaliation and wrongful termination due to sex/pregnancy and her use of the Oregon Family Leave Act.

Diamond Parking, Inc. v. Teamsters Local 117

Represented Diamond Parking, Inc. in regards to grievance and union arbitration involving alleged wrongful termination of three employees for violation of company policy.

Flowers v. Fred Hutchinson Cancer Research Center

Case No. C17-0989-JCC | U.S. District Court, Western District of Washington | Seattle, Washington

Defended Fred Hutchinson Cancer Institute against age and disability claims brought by a long-term employee also alleging retaliation claims, and obtained summary dismissal.

Forestry Services Company Labor Matters Related to Sale of Business

Represented a sizable forestry services company, in connection with all labor matters arising out of the sale of its forest product operations in Washington state.

Government Contracting Services LLC v. Evergreen Fire Alarms LLC

We represented Government Contracting Services in obtaining a temporary restraining order and preliminary injunction against two former employees and their new employer for violating non-disclosure agreements, and tortiously interfering with contractual and business relations.

Jacketta v. The Home Depot, Inc.

Defended employer against a claim of disability discrimination (failure to accommodate) processed by Alaska State Commission for Human Rights (ASCHR).

Johnson-Bari v. Sterling Savings Bank

Multnomah County Circuit Court | Portland, Oregon

Defended the insured, Sterling Bank, to a favorable jury verdict in which the plaintiff alleged discrimination and wrongful termination based on her perceived sexual orientation.

Kforce Inc. v. Oxenhandler

Case No. 2:14-cv-00774-MJP | U.S. District Court, Western District of Washington | Seattle, Washington

Represented Kforce, a specialty-staffing firm, who brought a trade secret and unfair competition suit against two former employees and a recruiting firm. Obtained highly favorable settlement at mediation.

Big Box Retailer Wage & Hour Class Action Lawsuit

U.S. District Court, District of Oregon

Defended big box retailer in case alleging the company failed to timely pay associates at the time of the termination of their employment. A favorable settlement was achieved and approved by the court.

M.K. v. Assets, Inc.

Defended employer against claims of discrimination and wrongful termination based on race, national origin and retaliation.

Kayshel v. Toyota of Kirkland

Defending the O'Brien Auto Group, comprised of more than a dozen auto dealerships, against claims that the dealerships failed to pay their sales consultants commissions on sales made on finance department products.

Anderson v. Kenai Peninsula Borough School District

Defended school district and principal in a suit by a minor student and her parents asserting damages inflicted as the student was the victim of bullying and cyber-bullying.

Big Box Retailer Wage & Hour Class Action Lawsuit

U.S. District Court, District of Alaska | Anchorage, Alaska

Represented big box retailer in four major wage and hour class action lawsuits pending in the states of Alaska, California and Oregon, as well as consumer-based class allegations under gift card and consumer protection laws in the state of Washington.

Macy's, Inc. Labor Negotiations With United Food and Commercials Workers Union, Local 21

Served as chief counsel (at the negotiating table) to Macy's, in labor negotiations for a successor collective bargaining agreement covering seven stores and approximately 1,500+ employees at the client's Seattle-area stores. Negotiations, involving complex issues relating to benefits, paid leave, commissions, compensation and contract language, were completed in August of 2012.

S.M. v. Assets, Inc.

Defended employer against a claim filed with the Anchorage Equal Rights Commission by a former employee claiming discriminatory termination based on disability.

McVay v. BNSF Railway Company

Case No. 2014 FRS-00068

Defended BNSF against a whistleblower/retaliation claim under the Federal Rail Safety Act.

Big Box Retailer Wage & Hour Class Action Lawsuit

U.S. District Court, District of Oregon

Defended big box retailer in case alleging the company failed to timely pay associates at the time of the termination of their employment. A favorable settlement was achieved and approved by the court.

Nielsen v. Unum Life Insurance Company of America, et al

Case No. 2:13cv1717 | U.S. District Court, Western District of Washington

Defended Unum Group against claims that its administration of Catholic Health Initiatives's employee benefit plan was actually a "church plan" and not governed by ERISA.

Oregon Occupational Safety and Health Division v. NuStar Energy LP

Case No. 10-0002OSH

Represented NuStar Energy in proceedings before the Oregon Workers Compensation Board, following a multiple count citation by the Oregon Department of Occupational Safety and Health for violation of the Oregon Safe Employment Act at its Portland, Oregon facility.

Oregon Racing, Inc. d/b/a Portland Meadows Collective Bargaining Agreement With Service Employees International Union, Local 49

Advised Oregon Racing, Inc. d/b/a Portland Meadows, a subsidiary of Stronach Group, in reopening of current collective bargaining agreement with Service Employees International Union, Local 49, in relation to Stronach's subsidiary Oregon Racing d/b/a Portland Meadows.

Powers v. Union Pacific Railroad Company

Case No. 2010-FRS-030

Defended Union Pacific against whistleblower and retaliation claims under the FRSA.

Service Employees International Union Local 1199NW v. Community Health Systems et al

Represented Deaconess Medical Center in proceedings before the National Labor Relations Board in a complex dispute involving alleged unilateral changes in health care insurance, refusal to furnish information, failure to bargain in good faith, and other alleged violations.

Tesoro Refining and Marketing Company 2015 Refinery Strike

Represented Tesoro in connection with all legal matters growing out of a United Steelworkers (USW) strike at Tesoro's refinery in Anacortes, Washington.

Uei v. Kenai Peninsula Borough

Case No. 3KN-11-278 CI

Defended the Borough and several of its employees in a lawsuit alleging inadequate supervision and negligent hire in the context of an altercation and alleged injury at a Borough operated athletic facility.

Walleri v. Tanana Chiefs Conference, Inc.

Case No. 4FA-11-00981 CI | Alaska

Defended Tanana Chiefs Conference against alleged wrongful termination and breach of contract claims by former in-house counsel.

Woodford v. Tesoro Companies, Inc.

Case No. 3:11-cv-000444-TMB | U.S. District Court, District of Alaska

Defended employer against claims of wrongful termination, gender discrimination and retaliation.

Teplick v. Boeing Employee Welfare Benefit Plan

U.S. District Court, District of Oregon

Summary dismissal of all ERISA disability claims, applying de novo review.

Bryant v. Policy for Basic Life

U.S. District Court, District of Oregon

Summary dismissal of all ERISA disability claims, applying de novo review.

Stamp v. Fortis Financial Group

Case No. WL 35616048

Summary dismissal of ERISA benefit claim.

Lori Mackey v. Home Depot USA, Inc.

Clark County Superior Court | Washington

Obtained dismissal of disability and retaliation wrongful discharge claims on behalf of Home Depot.

Abigail Investments v. Urquhart v. Abigail, Mainland Resources et al.

Case No. 2:09-cv-1174-JCM-GWF | U.S. District Court, District of Nevada

Defended several companies and individuals named in counter-claim by consulting oil and gas engineer for \$5 million in stock and \$6 million in lost profits and supervised tactics of numerous defendants' counsel. Orchestrated multi-party, highly favorable settlement.

First Union Non-compete and Trade Secrets Suit

Defended recruiting firm and brokers in three cases brought by recruits' former employer who alleged breach of non-compete and trade secrets misappropriation. Defeated injunctions and obtained small liability awards at arbitrations.

Microprobe Founder Employment and Intellectual Property Matter

Worked out mutually satisfactory termination agreement separating out intellectual property of client, a founder of Microprobe, from that of former business.

Morgan Stanley Dean Witter Discrimination Claims

Obtained dismissal of discrimination claims against firm and branch manager before hearing and no-liability dismissal of remaining claims after hearing; and no forum fees were allocated to firm.

Wade Cook v. Quantum Vision

Opposed and defeated TRO and preliminary injunction motions brought by Wade Cook Seminars against former Wade Cook speakers, employees and competing seminar firms. Prevailed on the merits with small liability award in arbitration.

Edward D. Jones & Co. L.P. v. Mark Anderson

Case No. 12-2-34362-4 SEA | King County Superior Court

Obtained dismissal of TRO motion against financial advisor who had transferred to new firm and "announced his new employment" instead of soliciting in violation of employment contract provisions and the trade secrets act, then procured highly favorable settlement.

Whistleblower Retaliation Lawsuit

Defended residential care facility employer against former caregiver employee's whistleblower retaliation lawsuit, related to Department of Human Services' investigation of alleged resident abuse. Employee claimed employer retaliated against and terminated employee because employee reported alleged safety and resident abuse violations to the DHS.

Dean Witter Reynolds Inc. Employment Suit

Defended brokerage firm, local branch manager and chief in-house attorney for Western Region in \$2 million arbitration for constructive discharge, defamation and race discrimination. Obtained no liability dismissal at industry arbitration hearing.

Edward D. Jones & Co. v. Alan Lawrence

Case No. 2:14-01406- JLR | U.S. District Court, Western District of Washington

Obtained dismissal of TRO motion against financial advisors who had transferred to new firm and "announced their new employment" instead of soliciting in violation of employment contract provisions and the trade secrets act, then settled.

Lincoln Life Non-compete and Trade Secrets Suit

Represented annuities issuer preliminarily enjoining former securities broker/insurance agent (who had no non-competition covenant in agency agreement) from competing unfairly, misleading customers and misappropriating trade secrets; dismissed \$5 million sex discrimination counterclaims at hearing.

Cowen v. Alaska State Commission for Human Rights and Big Box Retailer

Defended retailer against claims of alleged disability discrimination in employment

Flory v. Big Box Retailer

Defended employer in alleged employment disability discrimination suit

Hoffman v. Big Box Retailer

Defended employer against alleged sex and disability discrimination claims

Jenkins v. Big Box Retailer

Defended retailer against alleged disability discrimination in employment claims

Johnson v. Big Box Retailer

Defended employer against claims of alleged sex discrimination, harassment, retaliation, failure to accommodate and wrongful termination

McDowell v. Big Box Retailer

Defended retailer against claims of alleged disability discrimination/failure to accommodate.

Olson v. Big Box Retailer

Defended retailer against alleged gender discrimination in employment claims

Watkins v. Big Box Retailer

Defended employer in alleged gender discrimination and wrongful termination suit

Zurek v. Big Box Retailer

Defended retailer against alleged national origin and gender discrimination in employment claims

Combination FMLA Discrimination and Personal Injury Lawsuit

Defended national employer against claim by former employee that employer had unlawfully terminated employee based on employee's FMLA leave and that employer had caused personal injury to terminated employee's infant child.

Disability Discrimination Lawsuit

Defended national employer (and certain management employees) against claim by former employee that employer and management discriminated against, harassed, retaliated against and terminated employee based on employee's alleged disability.

Employee Theft From Employer

Represented national employer to investigate theft by former manager and to recover stolen funds. Worked with law enforcement and prosecuting attorney to obtain arrest and conviction of employee, and to obtain judgement of restitution and restitution payments from employee.

Employee Sexual Abuse of Resident

Defended skilled nursing facility against state agency findings that alleged facility had subjected vulnerable facility residents to sexual abuse by failing to take appropriate actions to prevent, detect, investigate and report alleged sexual abuse perpetrated by a rogue former employee/caregiver.

Protection of Employer's Employees — Anti-Harassment Protection Order

Represented administrator of assisted living facility to obtain anti-harassment protection order against involuntarily discharged resident who threatened to murder administrator. Employer also retained security guards related to this matter.

Reporting Employee Misconduct to Regulatory Agencies

Represented northwest employer in analyzing issues related to misconduct committed by former employee who is regulated by various agencies, and assisting employer to through process of reporting to various regulatory agencies.

Bloemhard v. Big Box Retailer

Defended employer against alleged sexual harassment and retaliation claims

McElroy v. Simpson Tacoma Kraft Company, LLC

Case No. 14-2-05284-2 | Pierce County Superior Court

Defended employer sued for race discrimination.

Miley v. AstaReal, Inc.

Case No. 2:16-CV-00415 | U.S. District Court, Eastern District of Washington

Defended employer in national origin discrimination lawsuit.

Schultz v. Olympic Medical Center et al

Case No. 3:07-CV-05377 | U.S. District Court, Western District of Washington

Defended medical center in age discrimination lawsuit.

Carlson v. City of Spokane*

U.S. District Court, Eastern District of Washington

Federal jury trial of an employment discrimination matter. The defendant was accused of wrongfully terminating an employee with a disability. The jury returned a verdict for far less than the amount in controversy.

Walker v. Sherman*

King County Superior Court

Bench trial of a wage and hour of employment contract case. The court decided the case in favor of Jackson's client.

Oliver v. Spokane County Fire Dist. 9*

U.S. District Court, Eastern District of Washington

Obtained summary judgment dismissal in favor of a fire district in an employment law matter.

Moon v. City of Bellevue *

King County Superior Court

Participated in obtaining summary judgement dismissal in favor of a police department in an employment law matter.

Abel, et al., v. City of Algona*

U.S. District Court, Western District of Washington

Participated in obtaining summary judgment dismissal in favor of a police department in a multi-plaintiff employment law matter.

Krutov v. Registered Agents, Inc.

Spokane County Superior Court

Summary judgment for defendant in a retaliation claim.

Inocencio v. First Cash, Inc.

King County Superior Court

Plaintiff voluntarily dismissed his retaliation and disability claims following his deposition.

Local Union Chapter v. Public Safety Employer

Arbitration award in favor of a public safety employer in a grievance arbitration.

Reported Employment Related Appellate Decisions

Brooks v. Big Box Retailer

Case No. OAH No. 11-0206-HRC, ASCHR No. J-08-0069 | Alaska State Commission for Human Rights

Defended big box retailer against a race discrimination claim prosecuted by the Alaska State Commission on Human Rights (ASCHR), prevailing in an administrative hearing before an Alaska Administrative Law Judge, a decision affirmed by the ASCHR.

** Denotes experience at a previous firm*

Contact(s)

D. Michael Reilly

D 206.223.7051

reillym@lanepowell.com

Katheryn Bradley

D 206.223.7399

bradleyk@lanepowell.com

Paul M. Ostroff

D 503.778.2122

ostroffp@lanepowell.com