




NEAL ■ GERBER ■ EISENBERG

LABOR & EMPLOYMENT



Neal Gerber Eisenberg is a Chicago-based law firm whose lawyers share a culture of teamwork and devotion to personalized client service to advance clients' business interests throughout the U.S. and beyond.

Our lawyers provide legal business solutions to public and private entities of all types in connection with domestic and global business transactions and litigation. Our client base reflects a number of Fortune 100 companies, financial institutions, nonprofits and high net worth individuals. The firm has one office in Chicago. Operating from a single office ensures that clients are never lost in the shuffle of a thousand-plus attorneys and multiple global offices. With nearly 175 attorneys, the firm is large enough to handle nearly any legal matter anywhere in the world, yet small enough so clients personally know the attorneys accountable to their matters.

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## LABOR & EMPLOYMENT

As laws protecting employees' rights expand and grow more complex, it is increasingly important to have trusted legal allies by your side who understand your business. Our nationally acclaimed Labor & Employment practice helps employers react swiftly and surely to employment matters with the confidence that their actions are rooted in solid legal and strategic ground.

We counsel companies—public and private, large and small, for profit and not-for-profit—on the entire spectrum of labor and employment matters, including:

- Litigation (discrimination, wage and hour, non-compete, Sarbanes-Oxley, WARN Act)
- Traditional Labor Law
- Corporate Transactions
- Employment Law Counseling and Training

Our experienced attorneys bring sound business instincts, best-practices approaches and creative thinking to each legal challenge. These assets combine to generate effective and practical solutions for our clients, allowing them to identify and minimize risks before costly, complex problems surface. When difficult situations arise, our clients benefit from our detailed knowledge of their industries and our decades of experience as negotiators, problem solvers and litigators. We are able to draw upon broad interdisciplinary resources within our firm that enable us to view legal issues from all angles.

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## EMPLOYEE BENEFITS & EXECUTIVE COMPENSATION

Our firm works with employers to build and maintain benefits and compensation packages that retain quality employees while limiting employers' legal liabilities. We work with employers and executives of closely held and public entities on all facets of such plans, as well as tax-exempt organizations. Our services include:

- Tax, legal and economic issues arising out of establishing, maintaining and terminating 401(k) and other employee pension plans.
- Development and implementation of executive compensation arrangements, including deferred compensation, stock options, stock purchase and other equity-based compensation and incentive plans that address long-term and short-term corporate objectives.
- Negotiation and preparation of executive employment contracts and termination/severance arrangements.
- Design and administration of health, welfare and other fringe benefit plans, and their compliance with ever-increasing regulation under ERISA, COBRA, HIPAA (including medical privacy and security rules) and other laws.
- Plan mergers, spin-offs and terminations.
- Evaluation of service providers.
- Employee benefits aspects of corporate transactions, including transition issues and post-closing benefit structures, pension and retiree medical liabilities, severance, golden parachute and stock conversion issues.
- ESOPs (employee stock ownership plans).

Besides representing employers, we also counsel and fiduciaries of employee benefit plans, such as trustees and plan administrators, in connection with their legal responsibilities and plan matters. In addition, the firm represents acquirers and targets in the acquisition and disposition of businesses and investment funds that seek capital from employee benefit plans but want to minimize the potential liability related to benefit plan investors.

## EMPLOYMENT LAW COUNSELING & TRAINING

Due to the ever-increasing number of new laws addressing employment matters, every employer is confronted with enormous challenges in connection with the management of their employees. We are a resource for our clients to discuss decisions affecting applicants or employees in order to minimize the risks associated with these decisions. To perform this role, we gain familiarity with each employer's business, industry, competitive conditions, philosophy and overall objectives to build a relationship of trust and confidence.

### Employment Agreements

We carefully tailor employment agreements to meet each client's unique goals and objectives. Some clients' concerns center on protecting intellectual property and business relationships; in these cases, we craft provisions governing confidentiality restrictions, non-compete arrangements and the assignment of inventions and intellectual property rights, to name a few.

### Employment Policies

Employees and employers benefit from well-crafted employment policies. Developing and implementing such policies can pose complex challenges. Managers must carefully consider what will be most effective across the organization and anticipate how these policies will affect the company's productivity and competitive position.

### Supervisor & Employee Training

Employment decisions, even those once considered routine, are now subject to an ever-expanding and increasingly complex body of federal, state and local laws. The responsibility for understanding and correctly applying those laws no longer rests solely with the human resources department. Effective employment practices training that reaches all levels of an organization is now mandatory for any company that wants to compete and thrive in today's marketplace. The existence and effectiveness of a company's employment training programs has never been more important.

## LABOR & EMPLOYMENT LITIGATION

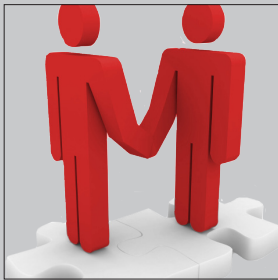
Lawsuits and administrative charges by employees have become a routine part of doing business. Neal Gerber Eisenberg's labor and employment attorneys have considerable experience in dealing with employment-related litigation. We have handled all types of employment-related claims and suits in all types of legal forums, including the Department of Labor, the EEOC, the OFCCP, the NLRB, state, city and county agencies, arbitration forums, and federal and state courts across the country.

Whether it is a class action or a single-plaintiff suit, we have successfully defended allegations of wrongdoing involving wage payment and overtime, discrimination and harassment, retaliation, leave-related claims, disability accommodation issues, and employment contract disputes, including enforcement of restrictive covenants and confidentiality/trade secret provisions.

### Non-Compete Agreements & Related Litigation

Many companies fail to fully protect their valuable human assets and their confidential and proprietary information and intellectual property. Ignoring this cache of valuable assets can have dire and far-reaching consequences. For instance, employees can leave, taking valuable intellectual property and knowledge with them, or use the goodwill gained from their employment to compete and/or solicit away business opportunities.

The laws that protect employers in such circumstances are complex and vary by state concerning what can be protected and how that protection must be secured. Our attorneys help clients understand this important issue and create sound, proactive strategies that protect these valuable assets through both offensive and defensive strategies.



## TRADITIONAL LABOR LAW (UNION & UNION-FREE)

Our labor and employment attorneys help clients take a positive and creative approach to relationship management to avoid these confrontations. We study the causes of employee dissatisfaction and assess current labor contracts and employment policies to identify areas of vulnerability.

We examine the personalities and policies of workforce leaders and take the pulse of employee sentiment. Then, we apply our collective experience and knowledge to resolve issues before they become serious problems. We may, among other things, recommend changes to policies and agreements, address communication challenges, position new initiatives and, where appropriate, lay the groundwork for productive negotiations.

### Union Contract Negotiations & Administration

Our labor and employment lawyers possess considerable experience in representing and counseling clients in negotiations and contract administration in both the public and the private sector. Our role in each negotiation is tailored to our clients' individual needs and objectives. Depending on the financial and operational needs of our clients, we serve as chief negotiators, bargaining committee members and/or "back room" advisers and strategists during negotiations.

## WAGE & HOUR

Our attorneys have extensive experience in counseling clients in all aspects of federal and state wage and hour laws, with a focus on developing strategies and policies that prevent costly wage and hour litigation. If litigation occurs, we aggressively defend both individual claims or class actions through the design of a focused, well-planned defense to resolve a case swiftly and minimize the costs of litigation.

We conduct comprehensive wage and hour audits specific to our clients' needs and business goals by evaluating wage and hour policies and practices, reviewing exempt and non-exempt job classifications, and assessing timekeeping and pay practices and policies. We are equally well-versed in litigating state-based wage and hour class actions and federal FLSA opt-in actions.

“ I find them concise  
and precise. I'm a pretty  
tough grader but there's  
nothing they need to  
do to improve. ”

- Chambers USA

# SIGNIFICANT REPRESENTATIONS

## EMPLOYEE BENEFITS & EXECUTIVE COMPENSATION

- We advised a client on its obligations under change in control agreements, which it assumed as part of a corporate acquisition. This representation included reviewing whether the agreements complied with the deferred compensation rules under IRC § 409A and determining whether the amounts due were “golden parachutes” under IRS tax rules, in addition to negotiating severance agreements with certain executives of the acquired company.
- We have represented several companies in connection with audits of their benefit plans by the Internal Revenue Service and the Department of Labor. This representation has included: (1) strategizing with clients on how to minimize potential adverse impacts; (2) preparing clients for interviews with the governmental agencies; and (3) negotiating favorable outcomes.
- We have counseled clients with complex corporate structures and multiple retirement plans on strategies for compliance with the requirements for tax qualified retirement plans. We also have advised retirement plan committees on their fiduciary responsibilities and negotiated contracts on behalf of plan sponsors with service providers.

## LABOR & EMPLOYMENT LITIGATION

### Employment Discrimination Litigation

- Represented a large law firm in a lawsuit filed by a then-current employee who alleged she was denied a promotion because of her race.
- Represented a self-storage company in race discrimination and sexual harassment litigation filed by a former employee.
- Represented a trucking company in a national origin discrimination case filed by a former employee.

### Non-Compete Agreements & Related Litigation

- Represented an international chemicals manufacturer in federal court litigation initiated by a competitor alleging that our client hired an employee in violation of his non-competition agreement and that the employee shared stolen trade secrets with our client.
- Filed suit in state court against four former employees of a manufacturer of credit card processing equipment; the former employees started a competing business and solicited the company’s customers in breach of their legal obligations to the company.

### Other Litigation

- Represented a national real estate company in WARN Act class action litigation related to the closing of a hotel.
- Represented a worldwide meat packing company in WARN Act class action litigation involving the closing of one facility and consolidation of another.
- Represented a Midwestern nursing home in WARN Act litigation resulting from closure of a nursing home.

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Labor & Employment ■  
Employee Benefits & Executive  
Compensation ■ Labor &  
Employment Litigation



Employee Benefits (ERISA) Law  
■ Employment Law - Management  
■ Labor Law - Management ■  
Labor Law - Union

## TRADITIONAL LABOR LAW (UNION & UNION-FREE)

### Unionized and Union-Free Management Strategy

- Represented a worldwide meat packing company in numerous union organizing drives, NLRB proceedings, and union certification and decertification elections involving the UFCW, Steelworkers and Teamsters at numerous locations.
- Represented a nationwide airline caterer in numerous union organizing drives, NLRB proceedings, and union certification and decertification elections involving the Teamsters and RWDSU at numerous locations.
- Represented a major nationwide distributor of sundry products in multiple union organizing drives, NLRB-conducted elections and NLRB proceedings, involving the Teamsters Union at several locations.
- Retained by national employer with more than 50 U.S. locations to conduct positive employer relations training and union vulnerability audits and assessments.

### Union Contract Negotiations & Administration

- Served as special labor counsel and chief labor negotiator for the city of Chicago in negotiating union contracts with all unions representing city of Chicago employees, including the SEIU, AFSCME, Coalition of Construction Trades Unions, Firefighters and Fraternal Order of Police.
- Represented the Chicago Board of Education in negotiating with the Chicago Teachers Union a new collective bargaining agreement containing a two-year salary freeze, significant increase in teaching time and the first-ever employee contribution to health care costs.
- Represented a multi-employer association of health care facilities in negotiations with the SEIU for a collective bargaining agreement covering more than 100 facilities and 7,000 employees.
- Represented a major retail chain in negotiating the successful closure of two distribution facilities and the transfer of work to two modern, efficient distribution centers, resulting in the company's ability to serve its retail stores in a substantially less-costly, more-efficient manner.

## WAGE & HOUR

- Defended corporate defendants in class action litigation alleging improper employee classification (i.e., application of the executive exemption to assistant and store managers), improper work-hours calculations and failure to pay overtime, and improper calculation of wages and overtime amounts in connection with bonus and commission payments.
- Represented a retail client in a FLSA collective action and state-counterpart claims alleging failure to pay overtime based on improper application of piece rates by the employer and propriety of independent-contractor classifications.
- Defended a company (including certain corporate officers) with 100+ retail stores in class action litigation alleging improper employee classification of assistant and store managers, improper work-hour calculations, failure to pay overtime and improper calculation of wages and overtime amounts in connection with bonus and commission payments.
- Defended a company against class action claims alleging failure to pay in excess of \$1 million to in-home installers based on purported miscalculation of travel and overtime wages.
- Defended a restaurant licensor and licensee against a class action complaint alleging miscalculation and/or underpayment of

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to get along with, and offer  
good value for money.”

- Chambers USA



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