

Labor and Employment Overview

Taft's Labor and Employment Law Department has received national recognition for the services it provides across the country for clients ranging from Fortune 500 companies to mid- sized and small employers in the private and public sectors.

Taft's attorneys are recognized in publications such as *The Best Lawyers in America*, *Chambers USA: America's Leading Business Lawyers*, and *Indiana and Ohio Super Lawyers*. *Chambers USA* has ranked the entire department at the very top of its ratings and Taft was named a "Go-To Law Firm" by *Corporate Counsel* magazine for labor and employment law. These accolades follow upon the legacy that began with the Labor and Employment Department's founder, J. Mack Swigert, who worked with the late Senator Robert A. Taft to level the playing field for employers with the Taft-Hartley amendments to the National Labor Relations Act.

The attorneys at Taft offer clients extensive experience in the wide range of legal services needed to manage the complex relationship between employers and employees, including Labor Management Relations, Employment Litigation, Day-to-Day Counseling, Benefit Plans, ERISA Compliance and Litigation, Workplace Safety and Health Issues, and Immigration and Citizenship.

Labor-Management Relations: Taft's Labor and Employment Practice has decades of experience representing public and private employers, both large and small, in the important relationship between management and unions. Whether facing a union organizing campaign, bargaining for a new labor agreement, or trying to remain competitive under the terms of an existing contract, management's approach must be well-considered at every step. And because all employers are increasingly expected to accomplish more with less, innovative solutions are often necessary. Taft attorneys provide thoughtful, creative advice in collective bargaining, union avoidance, NLRB cases, strike and lockout activities,



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grievance arbitration, labor litigation, and all other aspects of traditional labor law.

Taft's Labor attorneys have also kept pace with the evolving tactics that unions have come to favor in seeking new members. Corporate campaigns and top down unionization initiatives have become common. These tactics require carefully tailored responses, and Taft attorneys have helped develop comprehensive programs to address the aggressive, nontraditional approaches that some unions now take.

Labor relations in the public sector can pose other difficulties for employers. The focus on serving the general public, as opposed to the private sector's profit-driven management style, can significantly alter the employer's priorities when faced with a union organization campaign or with collective bargaining. Further, the long-term budget forecasting models often used in the private sector may be incompatible with a budgeting system controlled by a legislature or other third-party, creating unique challenges when trying to forecast future revenues in connection with bargaining decisions. The Labor and Employment attorneys at Taft have a long history of representing cities, counties, villages, school boards, universities, and other public institutions in successfully managing the unique challenges and dynamics of a public sector bargaining relationship.

Employment Litigation: Even the most careful employer may face discrimination charges or employment litigation at some point. Unfortunately, an employer's abundant good faith and the absence of a discriminatory motive do not guarantee that employment decisions are immune from challenge. The best result is to help clients avoid discrimination charges and lawsuits. But when these claims are filed, Taft's Labor and Employment attorneys have the necessary experience as they have handled thousands of matters before judges, juries, arbitrators, and government agencies, including numerous cases that have expanded the scope of employer rights. Taft attorneys have also represented clients in appeals relating to employment litigation handled by other law firms in the lower courts.

Using a cost-effective approach to employment litigation, the attorneys at Taft have defended individual and class action lawsuits involving claims alleging race,

gender, age, disability, and religious discrimination and harassment; retaliation; Family and Medical Leave Act violations; ERISA violations; breach of contract; torts; and various other employment-related causes of action. The primary goal is obtaining pretrial judgment for clients, thereby avoiding more drawn out litigation, but Taft attorneys stand ready for trial when necessary. Taft's Labor and Employment attorneys have had numerous successes in jury trials and bench trials in both federal and state courts.

Day-to-Day Counseling: Employers are faced with difficult decisions every day. Taft's Labor and Employment attorneys can help navigate around the many pitfalls that accompany those decisions. Likewise, Taft lawyers help employers comply with the constantly changing laws, regulations, and court decisions that apply to the employment relationship.

Taft attorneys provide guidance to employers on a strategic basis in all labor and employment areas, including hiring, firing, layoffs, discipline, leaves of absence, promotions, pay practices, investigating employee complaints, harassment and diversity training, affirmative action plans, and review and drafting of employer policies. They help employers comply with the panoply of employment laws, some of which include:

- Age Discrimination in Employment Act
- HIPAA

- Americans with Disabilities Act
- National Labor Relations Act

- COBRA
- Non-Competes and Intellectual Property

- Drug Free Workplace Act
- OSHA

- ERISA
- Pregnancy Discrimination Act

- Equal Pay Act
- Prevailing Wage

- Fair Labor Standards Act
- Title VII

- FMLA
- WARN

Benefit Plans, ERISA Compliance and Litigation: Compliance with ERISA and the other associated employee benefit laws has never been more difficult. The laws change in material respects almost every year. Just the past few years have seen the passage of the Affordable Care Act, Medicare Part D and significant changes to the pension laws that affect the construction and administration of both traditional defined benefit pension plans as well as 401(k) plans. The changes in the way claims for both pension and welfare benefits must be administered are sometimes confusing, but the Taft firm has substantial experience in claims compliance.

Taft attorneys have represented benefit plans, employers and fiduciaries in some of the largest ERISA cases across the country, in matters involving more than one billion dollars in exposure in both pension and retiree insurance types of cases. Our attorneys have substantial experience in cases asserting pension plan design allegations, cash balance pension plan design claims, including claims of whipsaw, wearaway and anti-cutback, retiree insurance claims, fiduciary duty claims, issues peculiar to pension plan mergers, other claims relating to employee welfare benefit plans, issues concerning summary plan descriptions and also claims concerning the efficacy of ERISA 204(h) notices. This experience includes both major class action cases as well as defense of lawsuits brought by individuals, including claims of wrongfully denied insurance and disability benefits. ESOPs can present their own peculiar issues, and Taft attorneys have substantial experience with these as well.

Taft's long history representing employers with unionized work forces includes



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substantial representation with benefits issues unique to an employer's union relationship including potential withdrawal liability, MEPPA liability issues, and other matters relating to rules required of Taft-Hartley plans. Our attorneys have experience both in lawsuits and in arbitration where these issues are litigated.

Taft's Labor and Employment attorneys also do substantial work in the fields of Workplace Safety and Health and Immigration and Citizenship.