

practice chairs

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Today's workplaces increasingly generate a wide array of complex dynamics that employers must traverse in a strategic and timely manner. Our team provides high-quality counsel on the full continuum of employment law matters, informed by many years of seen-it-all experience and a combination of deep institutional knowledge with fresh, innovative ideas. Conveniently offering a "one-stop" practice, our lawyers work diligently to resolve clients' issues and concerns by using tools that range from a simple five-minute phone call to full-blown, save-the-company litigation strategies—and everything in between. We've earned a national reputation for providing practical, cost-effective advice that helps companies stay focused on what they do best: running profitable businesses, providing good jobs, and enhancing their communities.

Serving many types of organizations, including large and small public and private companies, tax-exempt groups, small family businesses, overseas enterprises, and individuals, our firm's employment lawyers represent clients in a range of industries, from finance and financial services to software and high tech to manufacturing. The team advises in general employment matters, discrimination and harassment proceedings and litigation; contract preparation, negotiation, and enforcement; terminations and restructurings; personnel policies and manuals; training, executive compensation and employee benefit plans; restrictive covenant drafting and enforcement, and pension and profit-sharing issues. Always staying abreast of the ever-changing regulatory framework, we keep our clients informed and compliant with all relevant employment laws and requirements.

Employment Law Talk

This multi-part series that discusses important developments in the employment law space on non-competes, non-solicits, artificial intelligence in hiring, among other topics in New York and elsewhere.

[Watch Our Series](#)

Why Our Experience is the Right Fit

Clients appreciate that each member of our team can serve them in a full spectrum of issues, concerns, and disputes. An attorney may do everything from craft a manual to advocate for a company in a courtroom trial. Our deep involvement with the organizations we represent means we build strong, collegial business partnerships with our clients over the long term. We get to know their businesses, goals,

employees, work cultures, and human resources approaches, and this personalization lets us tailor legal strategies precisely to client needs.

Our team believes in communicating clearly and frequently with clients—and always in plain English rather than legalese. Because education is often the best tool to prevent workplace issues from arising in the first place, we routinely share knowledge with those we represent, information on everything from the big-picture issues to the nuanced details of the employment law landscape. We provide workplace training according to schedules and methods that work best for clients.

Our Innovative Approach

Overseeing Overseas Entities: Many of our clients are internationally-based companies navigating an unfamiliar and often confusing U.S. employment law and regulatory environment. We shepherd them through this complex topography to help keep them compliant and on track to achieve their commercial goals.

Privacy and Personal Information: In the age of worldwide electronic connectivity, privacy protection is a hot topic and one that crops up more and more frequently in employment law. Coordinating with related firm practice groups, including the Cybersecurity and Data Privacy area, we help clients handle issues relating to domestic and international laws regulating this emergent area of concern.

Good Advice, Good Value: We take a sensible, flexible approach to pricing and always keep our clients' bottom lines in mind while providing efficient and effective guidance.

Employment Ebbs: Underperforming employees, the cyclical nature of the economy, and events such as recessions and the COVID-19 pandemic spark the need for individual terminations and workplace reductions. Our team always stays ready to walk employers through these difficult processes and ensure that they are handled in a strategically, ethically, and legally sound manner.

Proven Strengths

We counsel clients in a full range of employment law areas, including these and others:

Litigation: We represent clients in age, disability, race, religious, and sex discrimination cases and in administrative proceedings and court litigation generated by the federal and state discrimination laws.

Contracts: Our attorneys prepare and negotiate executive contracts and other employment-related agreements. We also prepare confidentiality, restrictive covenant, and invention agreements.

Contract Enforcement: Our team has particular experience in the enforcement of employment contracts, particularly those containing restrictive covenants which preclude competition and misuse of confidential information and trade secrets.

ADR: We often represent our clients in arbitrations and other alternative dispute proceedings to resolve employment disputes.

Personnel Advice: Our lawyers advise clients on personnel matters, including the drafting of employee manuals, personnel policies, and employment contracts. We consult with clients on wage/hour matters, disability issues, drug testing, unemployment insurance claims, and performance evaluation and disciplinary issues.

Terminations: We advise with respect to employee terminations and severance issues and how best to avoid liability while also performing this often delicate and difficult task as fairly and sensitively as the situation warrants.

Restructurings: Clients undergoing reorganizations, relocations, reductions-in-force, plant closings, and mergers and acquisitions turn to our lawyers for legal services and guidance related to employee benefit cost analyses, employee communications and notices, WARN notices,

COBRA issues and notification, pension matters under ERISA, bonuses, vacation pay, preventative measures against discriminations charges and lawsuits, separation agreements, releases, employee assistance, and out-placement and security.

Pension- and Profit-Sharing: We advise management on the requirements of ERISA, including the design and drafting of pension and retirement plans, incentive early retirement plans, profit-sharing and stock-bonus plans, employee stock ownership plans (ESOPs), and employee welfare plans.

Automated Employment Decision Tools (AEDTs): We advise on New York's Local Law 144 Algorithmic Hiring Law, among other statutes targeting the use of AI in employment decisions.

Employee Benefits, Executive Compensation and Plan Investments Under Erisa

The firm has a broad-based practice in employee benefits, executive compensation and fiduciary matters under the Employee Retirement Income Security Act (ERISA). Our attorneys take a team approach that can provide comprehensive legal advice encompassing many practice areas. Our clients in these have included both individuals, publicly-held and closely-held corporations, partnerships, investment funds and other business entities engaged in a wide range of industries, as well as, churches, foundations and other tax-exempt organizations. Set out below is a synopsis of our work in these areas.

Employee Benefits

Our attorneys advise employers on the full gamut of tax-qualified retirement plans they may maintain for their employees, including pension, profit sharing and 401(k) plans, and, for our not-for-profit clients, 403(b) annuity programs. Our work includes guiding employers in plan design, drafting plan documents, securing IRS determination letters for new plans and amendments to existing plans, advising plan sponsors about tax qualification and ERISA compliance issues arising in the course of plan administration, as well as, plan terminations. We also have significant experience in guiding tax-qualified plans through the various remedial correction programs of the Internal Revenue Service.

We also counsel employers as to tax and ERISA issues relating to employee welfare benefit programs for employees, including health care, medical expense and dependent care reimbursement plans, VEBAs used to fund post-retirement medical and insurance benefit coverages, and Section 125 "cafeteria" plans.

Another significant aspect of our practice involves guiding our clients through employee benefit issues that arise in connection with mergers, acquisitions, divestitures, spin-offs, joint ventures and other similar business transactions.

Executive Compensation

Our attorneys have extensive experience in working with the senior management of U.S. and foreign clients in preparing and negotiating compensation programs for their outside directors, executive officers and management-level employees. Our work in this regard has included tax and design considerations, as well as, corporate board responsibilities in connection with the following:

- deferred compensation plans that comply with Section 409A of the Internal Revenue Code;
- annual and long-term bonus compensation plans;
- incentive and nonqualified stock option plans, and awards of restricted stock and phantom stock units;
- structuring cash and stock-based compensation for senior executives to qualify for the "performance based" exception to the \$1 million limit on deductibility under Code section 162(m);
- "top hat" arrangements and supplemental executive retirement plans;
- negotiated severance packages, executive change in control agreements and "golden parachute" arrangements.

ERISA Fiduciary Matters

We also provide advice relating to the investment of plan assets. Our work for plan sponsors in this regard includes negotiating and drafting trust agreements, investment management agreements, and agreements with those providing recordkeeping and other administrative services to plans, advising "in-house" and external plan fiduciaries as to their duties, responsibilities and potential liabilities under ERISA.

Issuers of private equity and other investment vehicles have sought our counsel in offering investments to employee benefit plans. We advise on the application of fiduciary requirements, ERISA's plan asset rules, and prohibited transaction rules on the proposed investments, and assist these clients in the development of investment products for employee benefit plans. For example, we have

- worked with investment funds on the establishment, structure and operations of venture capital operating companies (VCOs) and real estate operating companies (REOCs);
- guided fund managers in monitoring benefit plan investments to avoid ERISA plan asset characterization;
- advised indenture trustees regarding ERISA fiduciary concerns in connection with the issuance of securitized debt and "repo" transactions.

Trade Secrets and Restrictive Covenants

Carter Ledyard has a nationally known restrictive covenants practice advising on all manner of non-compete agreements. For many of our clients, protecting their key employees through employment agreements or restrictive covenant agreements is critical to protecting their business, trade secrets and goodwill.

[Learn more about our Trade Secrets and Restrictive Covenants Practice.](#)

[Read Recent Publications](#)

Representative Experience

- *Moscattelli v. Owl's Nest, Inc., et al.*, 554 F. Supp. 3d, 2021 WL 3577908 (E.D.N.Y. Aug. 12, 2021)
- *Penn v. N.Y. Methodist Hospital*, 884 F.3d 416 (2d Cir. 2018) (*writ of certiorari denied* 139 S. Ct. 424 (Oct. 29, 2018));
- *Sethi v. Narod*, 12 F. Supp. 3d 505 (E.D.N.Y. 2014);
- *Thomas v. iStar Fin., Inc.*, 652 F.3d 141 (2d Cir. 2010) and 629 F.3d 276 (2d Cir. 2010);
- *Caban v. N. Y. Methodist Hosp.*, 119 A.D.3d 717 (2d Dep't. 2014);
- *Alizadeh v. Pei*, 2017 N.Y. Misc. LEXIS 4767 (N.Y. Sup. Ct., Kings Co., Dec. 11, 2017)
- *Sethi v. Morrissey*, 105 A.D.3d 833 (2d Dep't 2013).