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Dedicated to the Exclusive Representation of Management in Labor and Employment Matters

McMahon Berger is an AV® rated, St. Louis-based labor and employment law firm with over 60 years of service to employers throughout the United States. Our clients include public and private organizations in union and non-union environments.

Why McMahon Berger?

As one of the most experienced labor and employment law firms in the country, our lawyers fully understand the immense legal challenges facing today's employers. To help our clients address these challenges, McMahon Berger:

- Aggressively defends our clients before federal and state courts and administrative agencies
- Educates employers through counseling and training
- Works closely with clients on workplace investigations
- Diligently pursues litigation alternatives including mediation, arbitration, and other negotiation

Range of Legal Services

Businesses face employment-related legal threats in almost all areas of operation, from the board room to front-line service personnel and maintenance staff.

At McMahon Berger we partner with employers to minimize conflict through training, policies, and procedures. When disputes do arise, we move quickly to respond with investigations, negotiations, or litigation.

Our full range of services includes but is not limited to:

- Appellate work
- Arbitration and mediation (ADR)
- Claims management
- Counseling on daily human resources issues
- Investigations
- Litigation
- Negotiations and settlements
- Training



EMPLOYMENT LAW

Discrimination, Harassment & Retaliation

The diversity of America's workforce frequently leads to claims of unfair treatment. When this happens, McMahon Berger attorneys help clients resolve claims of discrimination, harassment, or retaliation before federal and state agencies, such as the EEOC and Department of Labor, as well as in federal and state courts across the country. We also counsel and represent clients on affirmative action and other matters before the Office of Federal Contract Compliance Programs ("OFCCP").

Wage & Hour Disputes

Payroll issues represent some of the most common causes of labor and employment disputes. We regularly counsel clients on wage and hour issues, including exempt status, overtime, bonus calculations, vacation pay, meal breaks, "off the clock" work, time keeping, time clock fraud, and classification issues. McMahon Berger defends organizations against both individual and class-based wage and hour claims throughout the U.S.

Workplace Safety

We counsel and defend clients on health and safety matters, including representation before the following agencies:

- Occupational Safety and Health Administration (OSHA)
- Mine Safety and Health Administration (MSHA)
- National Mediation Board (NMB)
- Railway Labor Act (RLA)
- National Labor Relations Board (NLRB)



Wrongful Discharge – Public Policy

Wrongful termination claims typically involve allegations that an employer took an action against an employee for reporting or threatening to report an employer's violation of "public policy." We defend employers in these matters, where damages can be substantial.

LABOR RELATIONS

McMahon Berger has a proud history of representing businesses in all aspects of labor relations. Our experience includes:

- Collective bargaining
- Labor relations training
- Grievance and arbitration proceedings
- Strikes, picketing, and leafleting
- NLRB proceedings

While the private sector unionized workforce has decreased, labor unions remain some of the most powerful and sophisticated forces in today's political landscape. Recent changes to the election rules made by the NLRB, as well as more union and employee friendly decisions concerning employer work rules, create a challenging workplace for employers. We help businesses develop a cost-effective labor relations strategy to minimize the potential risk of violating the law.

BUSINESS IMMIGRATION

We assist companies on a wide range of business immigration issues. U.S. immigration laws are constantly evolving and we help employers understand what approach will work best for their organization, including Form I-9 compliance and employment visas.

INVESTIGATIONS

Every employer understands the risks associated with complaints in the workplace. But what is the next step once the complaint is received? A proper internal investigation, followed by prompt remedial action, is the key to successfully defending any claim by an employee against an employer. The lawyers at McMahon Berger assist employers throughout the investigative process. We help uncover the facts needed to resolve employment and labor disputes.



HUMAN RESOURCES POLICIES, PROCEDURES & EMPLOYEE HANDBOOKS

McMahon Berger attorneys routinely help clients prepare and apply disciplinary processes and procedures. Our days are devoted to interpreting employee handbooks, company rules, regulations, and employment policies. We routinely work on matters involving:

- Background checks
- Compensation
- Trade secrets, confidentiality and non-competes
- Diversity
- Employment and contractor agreements
- Leaves of absence
- Performance management
- Privacy
- Severance and separation
- Discipline and discharge

When a company considers the sale, relocation, merger or acquisitions of a business, we assist them with WARN Act notices and other employment compliance requirements.

CORPORATE COMPLIANCE & ETHICS

With local, state, and federal regulations changing at a rapid pace, your business must ensure it remains compliant. McMahon Berger can assist your company in creating internal policies and procedures and developing employee training programs to maintain compliance. If such policies, procedures and programs are not in place, your business could be at risk. Our attorneys have years of experience assisting businesses in corporate and ethics compliance.

PENSION, HEALTH, AND BENEFIT PLANS

McMahon Berger attorneys counsel clients on the design and implementation of Employee Retirement Income Security Act (ERISA) health and benefit plans. We are experienced in resolving compliance issues with leading government agencies, including but not limited to the Internal Revenue Service, Department of Labor and Pension Benefit Guaranty Corporation.

We also create and administer a full range of pension plans, including 403(b) tax-sheltered annuity programs, employer-sponsored 401(k) plans, 457 deferred compensation plans, profit sharing plans, and defined benefit and defined contribution plans. Plan sponsors rely on us for assistance with the daily operations of pension and welfare plans, including Consolidated Omnibus Budget Reconciliation Act (“COBRA”) compliance, routine filings, annual audits, and correcting plan errors.

TRAINING

Delays in conducting training on employment and labor law and HR compliance can prove costly. Effective training can provide a defense to certain litigation. For instance, if employees have been trained on the proper reporting procedure for harassment or discrimination, employers can assert a defense against a later-filed claim if the employee fails to follow the steps. Managers who have been trained on how to track and document hours worked will have accurate documentation of employee hours going forward. In the face of a wage and hour lawsuit, this documentation could be invaluable. The experienced attorneys of McMahon Berger are well-versed in all areas of employment and labor law and we can help your organization maintain compliance.



INDUSTRY EXPERIENCE

McMahon Berger attorneys have in-depth knowledge of reasonable and customary practices in a wide range of labor-intensive industries, including but not limited to:

- Education
- Healthcare
- Hospitality
- Manufacturing
- Municipalities and public agencies
- Non-profit
- Service
- Transportation

PANEL COUNSEL CONSIDERATION

McMahon Berger offers insurance carriers and self-insureds a strong value equation through our focus on employment practices liability coupled with highly competitive rates achieved through cost management.

Claims made under Employment Practices Liability Insurance (“EPLI”) policies typically encompass wrongful termination, whistleblower retaliation, civil rights violations of both state and federal law, or negligent breach of an employment contract. When an employment disagreement becomes subject to an insurance claim under an Employment Practices Liability (“EPL”), Errors & Omissions (“E&O”), Directors & Officer (“D&O”), or commercial liability policy, we stand ready to launch an investigation quickly.



James N. Foster, Jr. served as a Field Attorney with Region 14 of the National Labor Relations Board prior to spending 40 years in the practice of labor and employment law. He represents employers in litigation before the courts, National Labor Relations Board, and the National Mediation Board.

Mr. Foster counsels clients in NLRB unfair labor practices, statutory remedial issues, advising regarding statutory priority cases such as secondary boycotts, post-election challenges, and objection proceedings. He is experienced in negotiating collective bargaining agreements, advising regarding strikes, and in obtaining state and federal court injunctions and arbitration.

He advises clients in all facets of employment law, including employment discrimination claims arising under Title VII, the Civil Rights Act of 1991, the ADA, ADEA, FLSA, and the FMLA.

J.D., cum laude, St. Louis University School of Law, 1978
B.A., magna cum laude, St. Louis University, 1976



Kevin J. Lorenz has successfully advised and defended employers in all aspects of labor and employment law arising in state and federal courts, arbitration and mediation, as well as before a large variety of state regulatory agencies.

Mr. Lorenz has assisted, advised and/or defended employers in a broad range of matters, including claims of discrimination, harassment, retaliatory discharge, wrongful discharge, breach of employment agreements, wage and hour claims, independent contractor issues, restrictive covenants, trade secrets agreements, negotiation of collective bargaining agreements, grievance adjustment, arbitrations, strikes, and union avoidance.

Mr. Lorenz's practice over the years has encompassed a broad range of industries throughout the United States and he is a frequent lecturer at seminars for clients and a variety of industry groups and associations.

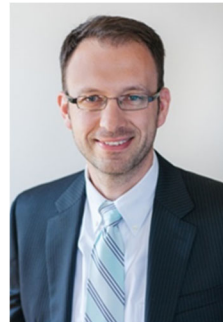
J.D., St. Louis University, 1981
B.A., St. Louis University, 1977



Michelle M. Cain concentrates her practice on employment litigation in federal trial and appellate courts. Earlier in her career she worked in the Civil Rights Division of the U.S. Department of Justice in Washington, D.C. She has also represented employers in complex and class action lawsuits brought under the Worker Adjustment and

Retraining Notification Act and other federal statutes. Ms. Cain also has extensive appellate experience before federal and state appellate courts throughout the country, including the Seventh and Eighth Circuit Courts of Appeals and the United States Supreme Court. She has advised clients on all aspects of the employment relationship, including personnel policies, employment contracts, severance agreements, employee handbooks, termination procedures, and compliance with federal and state human rights laws, wage and hour laws and plant closing laws.

J.D., with highest distinction, John Marshall Law School, 1988
B.A., University of Illinois, 1981



Stephen B. Maule practices in all areas of labor and employment law, including employment discrimination claims under Title VII, the ADA, ADEA, FLSA, FMLA, and the Missouri Human Rights Act.

He advises clients on personnel policies, daily human resource issues, employment contracts, severance agreements, and employee handbooks. When necessary, he defends clients in

federal and state courts and administrative agencies across the country.

In the labor arena, Stephen represents management in arbitration, NLRB elections, objections to elections including pre and post-election conduct, collective bargaining, strikes and injunctions, and unfair labor practice charges.

Stephen has extensive experience handling issues before the Office of Federal Contract Compliance Programs. He is also experienced in U.S. Immigration and Customs Enforcement (ICE) investigations and handles all business immigration matters for the Firm, including all forms of employment visas (H-1B, B, L, TN, permanent residency) and I-9 compliance.

J.D., University of Missouri-Columbia, 1995
B.A., University of California-Davis, 1992



Robert D. Younger practices in all areas of labor and employment law, with an emphasis on representing clients in court and before the NLRB. He counsels clients on labor matters including union avoidance, elections, objections to elections including pre- and post-election conduct, collective bargaining, strikes and injunctions, arbitration, and unfair labor practice charges.

Mr. Younger defends employers in employment discrimination claims under Title VII, the ADA, ADEA, and the FMLA. He also counsels clients on employment-related matters such as drafting personnel policies, employment contracts, severance agreements, and employee handbooks.

J.D., *cum laude*, St. Louis University, 1992
B.S.B.A., University of Missouri-Columbia, 1989



Brian C. Hey represents city governments and the interests of management in all areas of labor and employment law. His experience includes representation of several Missouri municipalities as well as restaurants, manufacturers, insurance companies, and mass transit companies. Mr. Hey routinely advises municipal clients on a wide range of employment and labor law, including

general questions related to municipal law and the Missouri Sunshine Act. He served as lead negotiator for several St. Louis County municipalities for fire and police collective bargaining negotiations.

J.D., University of Missouri-Columbia, 2002
B.A., Truman State University, 1999



Daniel G. Fritz spent four years with The Boeing Company in the Phantom Works Contracts and Pricing Department prior to joining the firm where he defends management in all areas of labor and employment law.

As a traditional labor attorney, Mr. Fritz routinely counsels clients on collective bargaining agreements, disciplinary actions, the application of work rules, and NLRB matters. He

serves as the spokesperson for employers during labor negotiations, and also assists employers in labor matters involving union avoidance, elections, strikes, arbitrations, and unfair labor practices.

Mr. Fritz also represents employers in discrimination claims under Title VII, the ADA, ADEA, FLSA, and the FMLA. He defends clients in federal and state court, and before federal and state agencies.

J.D., St. Louis University, 2004
B.S., Truman State University



Brian M. O'Neal's employment practice includes all facets of employment law, including employment discrimination claims under Title VII and the Missouri Human Rights Act, the American with Disabilities Act, and the Family and Medical Leave Act. He is involved in litigating employment discrimination claims as well as investigating and responding on

behalf of management to employee claims before administrative agencies. In addition, he advises clients on employment-related matters such as employment contracts and daily human resources issues.

Mr. O'Neal conducts harassment and discrimination training for employers. He also regularly advises non-profit organizations.

J.D., St. Louis University, 2004
B.A., *magna cum laude*, Rockhurst University, 2001



John J. Marino, Jr. represents the interest of management in all facets of Labor & Employment Law. Mr. Marino's employment practice includes all aspects of employment law, including employment claims under Title VII and the Missouri Commission on Human Rights, the American with Disabilities Act and the Family and Medical Leave Act. He is involved in litigating employment claims as well as investigating and

responding on behalf of management to employee claims before administrative agencies, including the Occupational Safety and Health Administration. In addition, he advises clients on employment-related matters such as employment contracts and daily human resources issue

Mr. Marino also represents management before the National Labor Relation Board in charges of unfair labor practices, challenges to elections and post-election conduct. Mr. Marino also negotiates collective bargaining agreements on behalf of employers in a variety of industries as well as arbitrating numerous matters pertaining to contract questions and disciplinary actions.

J.D., St. Louis University, 2006; Certificate in Employment Law from the William C. Wefel Center for Employment Law
B.A., University of Missouri-Columbia, 2003



Rex P. Fennessey represents employers throughout the U.S. in all facets of labor and employment law. He is widely recognized in the field of wage and hour litigation, and has represented clients in numerous class action and collective action lawsuits. He defends employers against discrimination claims in Federal and State courts and before administrative agencies; including claims under Title VII, the Missouri, Illinois and other state Human Rights

Acts, ADA, ADEA, FMLA, the Equal Pay Act, the Pregnancy Discrimination Act, 42 U.S.C. § 1981, ERISA, the OSHA, whistleblower and public policy wrongful discharge claims. Rex also represents employers before the National Labor Relations Board in representation matters and unfair labor practice charges.

Rex also assists clients with investigations and audits before the U.S. Department of Labor, EEOC, OSHA, and the IRS.

Rex is a sought-after speaker on many employment topics including wage-and-hour compliance, employee leave issues, garnishments, and a variety of legal updates.

Rex previously served for six years as Assistant Attorney General for the State of Missouri.

J.D., University of Missouri, 2006
B.A., History, University of Missouri, 2003 (cum laude)
University of Missouri Alternative Dispute Resolution Certificate



Michael S. Powers represents the interests of management in all facets of Labor & Employment Law and is licensed in Missouri and Kansas. Prior to joining McMahon Berger, Michael practiced at multi-specialty litigation firm in Kansas City, Missouri. He also served for two years as the Chief Law Clerk in the Missouri 16th Judicial Circuit for the honorable Charles E. Atwell.

Michael's practice involves employment and labor law, with a focus on employment litigation, including litigating claims of discrimination under the Missouri Human Rights Act, Title VII, the Americans with Disabilities Act and the Family and Medical Leave Act. He also advises clients on employment-related matters including employment contracts and daily human resources issues.

J.D., University of Missouri Kansas City, 2010, *cum laude*
B.A., Truman State University, 2002



Timothy W. Bubenik represents the interest of management in all areas of labor and employment law. Before joining McMahon Berger, Tim spent six years with the US Department of Labor where he gained extensive experience in the areas of employment discrimination, affirmative action programs, occupational safety and health, and wage and hour issues.

Tim represents management before the National Labor Relations Board in unfair labor practice charges, challenges to elections and post-election conduct. In addition, he advises clients on employment-related matters such as employment contracts and daily human resources issues.

J.D., Charleston School of Law, 2010
B.A., Southern Illinois University, 2001



David H. Gutwein represents the interests of management in all areas of labor and employment law. With a background in law enforcement David gained extensive experience in conducting investigations. As a detective serving in a Robbery-Homicide Unit, David had the regular opportunity to investigate serious

crimes ranging from assaults to homicides.

While completing his legal education, David spent two years as an intern at the Saint Louis County Prosecuting Attorney's Office.

David's practice includes defending clients against employment discrimination claims brought under Federal and State law, including Title VII of the Civil Rights Act, the Missouri Human Rights Act, the Americans with Disabilities Act, and the Family and Medical Leave Act, among others. He is involved in litigating discrimination, harassment and retaliation claims as well as investigating and responding on behalf of management to employee claims before administrative agencies.

J.D., St. Louis University School of Law, 2008
B.A., Indiana University, 2004



Perry K. DeLay's practice is devoted to the exclusive representation of employers in all areas of employee benefits law that impact private sector and nonprofit employers, including ERISA and Internal Revenue Code compliance. He assists clients with the creation, operation and correction of qualified plans, health and

welfare benefit plans, and non-qualified deferred compensation arrangements.

Perry has represented clients before the Internal Revenue Service primarily in matters concerning plan corrections involving retirement plan tax qualification issues. Perry assists clients in dealings with multiemployer pension plans, including advising on withdrawal liability issues. Perry can also assist with the design, establishment, and implementation of employee stock options, phantom stock plans, restricted stock plans, and stock appreciation rights (SARs) plans.

J.D., Notre Dame Law School, 2000
LLM (tax), Villanova University Law School, 2005
B.A., M.A. University of Chicago



Arturo A. Hernandez III represents the interest of management in all areas of labor and employment law, including litigation before state and federal courts, as well as various administrative agencies, client counseling, and document preparation and review. Arturo also investigates and responds on behalf of management to charges filed

with the EEOC and MCHR.

Arturo regularly advises employers on business immigration matters such as Form I-9 compliance, best practices/compliance review, and preparing and filing business immigration petitions with U.S. Citizenship and Immigration Services on behalf of employers.

Arturo's experience prior to joining McMahon Berger includes successfully running his own litigation law firm, as well as serving as the Chief Legal Officer for the Cole County Juvenile Office. Arturo has taught trial practice, evidence, and business law as an adjunct professor at Columbia College in Jefferson City and has served as a presenter for various continuing legal education programs on behalf of the Missouri Bar.

J.D. Vermont Law School, 2007 (Mock Trial Court co-chair)
B.A., Texas A&M University, with Academic Certificate in Leadership Studies, 2004



Blaise M. Beebe represents the interest of management in all areas of labor and employment law. Blaise's practice includes defending clients against employment discrimination claims brought under Federal and State law, including Title VII of the Civil Rights Act, the Missouri Human Rights Act, the Americans with Disabilities Act, and the Family and Medical Leave Act, among others. He is involved in litigating discrimination, harassment and retaliation claims as well as investigating and responding on behalf of management to employee claims before administrative agencies.

Blaise also advises clients on employment contracts and handbooks, restrictive covenants, day-to-day human resources issues, and many other employment-related matters.

Blaise also advises clients on employment contracts and handbooks, restrictive covenants, day-to-day human resources issues, and many other employment-related matters.

While completing his legal education, Blaise was a member and a Managing Editor of the ABA Journal of Labor and Employment Law. Prior to joining McMahon Berger, Blaise worked for a personal injury law firm in St. Louis, Missouri.

J.D., Saint Louis University, 2022
B.A., Temple University, 2019



Giovanni V. DeGregorio represents the interests of employers and management in all areas of labor and employment law. Prior to joining McMahon Berger, Mr. DeGregorio represented business owners and employers in commercial litigation matters, including contract claims, construction litigation, trademark and copyright, real estate disputes, and corporate governance matters.

His current practice includes both employment and labor law, including employment discrimination claims under Title VII and the Missouri Commission on Human Rights, the Americans with Disabilities Act, and the Family Medical Leave Act. Mr. DeGregorio is involved in litigating employment discrimination claims as well as investigating and responding on behalf of management to employee claims before administrative agencies.

J.D., Saint Louis University School of Law, 2021
B.A., University of Mississippi, 2018



William J. O'Shea represents the interests of employers in all areas of labor and employment law. Prior to joining McMahon Berger, Will worked at a litigation firm representing clients throughout the United States in construction and business disputes, formation, and employment issues. Will has experience handling cases from inception to their conclusion with experience in trial, arbitration, mediation, and settlement.

Mr. O'Shea's current practice includes both employment and labor law, including employment discrimination claims under Title VII, the Americans with Disabilities Act, and the Family and Medical Leave Act. Mr. O'Shea is involved in litigating discrimination, harassment, and retaliation claims as well as investigating and responding on behalf of management to employee claims before administrative agencies.

J.D., Saint Louis University, 2021
B.A., University of Dayton, 2018



Monika R. Bidner represents the interests of employers and management in all areas of labor and employment law. Prior to joining McMahon Berger, Monika represented employers and insurance carriers in defending workers' compensation claims. She has experience handling all aspects of a claim from the initial investigation to resolution including settlement, trial, and appeals.

Her current practice includes defending clients against employment discrimination and retaliation claims under Title VII, the Americans with Disabilities Act, the Family and Medical Leave Act, and wage and hour disputes. Monika is involved in litigating discrimination, harassment, and retaliation claims as well as investigating and responding on behalf of management to employee claims before administrative agencies.

Her current practice includes defending clients against employment discrimination and retaliation claims under Title VII, the Americans with Disabilities Act, the Family and Medical Leave Act, and wage and hour disputes. Monika is involved in litigating discrimination, harassment, and retaliation claims as well as investigating and responding on behalf of management to employee claims before administrative agencies.

J.D., Saint Louis University, 2019
B.A., University of Nebraska Lincoln, 2013



McMahon Berger frequently posts informative content on its website at www.mcmahonberger.com. We also send out client alerts on important issues and conduct webinars and in-person seminars to educate clients on the latest developments in labor and employment law. If you would like to receive notice of these events, please contact us.