

Labor, Employment and Immigration

Labor and Employment

Contacts

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Helping you develop and maintain a satisfied and productive workforce is the primary mission of our labor and employment lawyers. We want you to spend less time and resources managing unproductive and disgruntled employees and more time and resources managing your business.

One way we help you achieve this objective is by keeping you up-to-date about and in compliance with labor and employment laws. By staying compliant, you avoid, or at least minimize, employment disputes that can seriously disrupt your business and lead to costly litigation.

Clients in Virtually Every Industry

Garvey Schubert Barer represents both large and small employers. We have deep experience in multiple industry sectors, such as healthcare, assisted living, organizations serving the developmentally disabled, Indian tribes, higher education, shipping, manufacturing, construction, retail, restaurants, insurance brokerages, small public entities, consulting, financial services and professional services.

Tools that Solve Problems and Control Costs

To help control client costs, Garvey Schubert Barer has developed two unique products. AdviceOnline provides reliable, practical tools to solve common HR problems. The Win² Alternative Dispute Resolution process cuts through most formal legal processes to enable parties to resolve employment disputes amicably and cost-effectively soon after a claim is made.

Meeting Challenges with Innovative Solutions

We believe our role as lawyers is not to focus on what you cannot do, but instead to help you find innovative ways to achieve your objectives while avoiding unnecessary legal risks. When you decide to take risks, we help you manage them.

People Management

We all understand that compliance is an important part of the HR function. However, of equal importance today is how employers treat and motivate employees. Employers who manage employees well have a more satisfied, productive workforce and fewer employee lawsuits. Our legal advice and training focus on both compliance and people management. This focus helps you establish and maintain a strong HR function that can significantly improve your operations and bottom line.

Benefits

An important part of any business's bottom line is its overall labor costs. Clearly, a significant part of those labor costs are comprised of the benefits and benefit plans that you offer the workforce. Garvey Schubert Barer has deep understanding and experience with such plans. We regularly assist employers in developing benefit and compensation packages that are competitive, advance your business goals and stay within budget, whether that be in the union or nonunion context.

You may visit the Employee Benefits and Executive Compensation section of our Web site for a complete description of our capabilities.

Compliance Audits

One of the best ways to protect your business from litigation and inadvertent violations of federal and state laws is have our labor

and employment lawyers conduct a compliance audit. This process can include on-site review of files, practices and procedures.

Our audits frequently reveal, and recommend ways to resolve, legal deficiencies in such areas as employee classification, performance management and outdated policies. Addressing legal issues like these at an early stage is less expensive than addressing them later.

Employment Advice

The dynamic and increasingly complex nature of employment law underscores the need to obtain sound legal advice about actual or potential employment law issues. This is especially true for smaller organizations that lack an in-house lawyer and cannot afford a full-time HR person. Even a large organization may not have the expertise to resolve, or even identify, challenging employment law issues. By providing practical, up-to-date employment law advice, we help you focus on running your business rather than worrying about employee claims and lawsuits.

Our labor and employment lawyers advise employers on a full range of employment matters, including

- ▶ Helping employers comply with federal and state laws such as the Americans with Disabilities Act and the Family and Medical Leave Act
- ▶ Developing strategies for dealing with changing workplace dynamics in such areas as harassment, violence, privacy, telecommuting and records management
- ▶ Reviewing proposed personnel actions in such areas as discipline, termination, hiring and promotions
- ▶ Designing and implementing reward and recognition programs, open-door policies and effective performance enhancement mechanisms
- ▶ Negotiating, reviewing and drafting employment agreements, such as confidentiality and nondisclosure agreements, separation agreements and technology licenses
- ▶ Advising employers how to conduct layoffs that minimize the risk of subsequent litigation by former employees
- ▶ Drafting and, when appropriate, revising policies on such key topics as discrimination, harassment, accommodation, drug and alcohol use and testing, telecommuting and other employment-related issues

AdviceOnline

Clients are understandably concerned about the cost of legal services. It is for that reason Garvey Schubert Barer created AdviceOnline for our Washington State clients. It provides reliable, practical advice to help organizations solve common HR problems and reduce risk. It also provides a wealth of tips, specific guidance, legally compliant forms and sample agreements with commentary. Unlike the Internet or published materials, AdviceOnline is frequently updated to reflect new laws and new issues.

Additionally, AdviceOnline has been tailored to meet the specific needs of both small and large employers, with different content available for larger employers. The cost of AdviceOnline varies depending on whether or not you are a Garvey Schubert Barer client. For clients with up to 49 employees, the discounted annual subscription cost is \$750. For clients with 50 or more employees, the discounted annual subscription cost is \$1,250. This cost includes 24/7 access to AdviceOnline for up to four users. Additional users may be added for \$100 each. For more information on what is included with a subscription, download the AdviceOnline brochure.

If you are not yet a Garvey Schubert Barer client, then you will not qualify for the discounted price. The regular subscription price is \$1,250 for employers with up to 49 employees and \$2,500 for employers with 50 or more employees. Whether or not you are a client, AdviceOnline provides a cost-effective way to obtain common and trustworthy information to help you address common HR challenges.

- ▶ Download the AdviceOnline brochure.
- ▶ View the table of contents and a content sample.
- ▶ To subscribe or for more information, please contact Elaine Jackson at 206.816.1426 or ehjackson@gsblaw.com.
- ▶ AdviceOnline login for current subscribers.

While the complete version of AdviceOnline is available by subscription as noted above, Garvey Schubert Barer is pleased to offer a complimentary basic version of AdviceOnline. All of our clients may take advantage of this unique benefit. The complimentary

version of AdviceOnline contains practical tools, useful tips, and basic information in the areas of staffing and hiring, employee relations, discrimination and harassment, etc., designed to assist businesses of all sizes to minimize risk and improve business practices.

For your convenience, we have made the registration process for the complimentary version easy: simply go to <https://extranet.gsblaw.com>; click on the "Register" button; agree to the Terms of Use; and the process is completed. AdviceOnline's basic version will then be available to you 24/7 from any location with a computer connection.

Government Investigations

Over the years employers have had to recognize and deal with the effects of an increasingly litigious workforce. Today, more employees feel that their first option for dealing with workplace issues is to file a charge of discrimination or unlawful activity with a government agency. Employers frequently attempt to answer these administrative charges themselves, often with disastrous results. Because these charges are precursors to full blown litigation, responses that are factually or strategically ill prepared can have devastating effects in resolving even a frivolous claim.

We have extensive experience guiding employers through investigative audits and administrative proceedings involving government agencies. This experience enables us to help clients maximize the chances of a favorable outcome and minimize the chances of a mistake. In all of our years of practice, we have rarely had a negative finding entered by a government agency against one of our clients when we were actively involved in the agency's administrative process.

Investigations

The proper handling of employee complaints of wrongdoing or policy violations is particularly tricky. Not only does an employer have a variety of legal duties, but the investigation is critical to resolving a complaint short of litigation.

Our lawyers conduct investigations on a wide variety of workplace issues. These investigations help resolve conflicts with employees, prevent litigation and establish credible defenses if litigation occurs.

Labor Advice

In recent years, union membership has shrunk significantly. But unions are determined not only to survive, but to grow. To achieve this growth, they are stepping up their organizing activity. In addition, pending legislation may make it much easier for unions to organize your employees, without the historical protections that exist under current law.

For employers, a unionized environment may pose many more challenges than a union-free environment. These include a loss of control of certain operational decisions, administrative expense, an "us vs. them" mentality and additional complexities in communicating with employees. We help clients foster and maintain a nurturing work environment that is more likely to remain union free. If union-organizing efforts materialize, we help clients prepare for and effectively respond to union campaigns.

We also provide other labor-related services such as

- ▶ Negotiating collective bargaining agreements
- ▶ Interpreting, administering and enforcing collective bargaining agreements
- ▶ Representing clients in grievance arbitrations and unfair labor practice proceedings
- ▶ Advising clients on strike planning and prevention
- ▶ Representing clients in court injunction proceedings involving unlawful strike or picketing activity

Our labor and employment practice includes two lawyers who previously worked at the National Labor Relations Board. They have first-hand experience with the NLRB's perspective on union-organizing efforts, the way it conducts elections that decide union representation and the agency's investigations of unfair labor practice claims. This "insider" experience enhances the practical advice we provide to clients.

Labor and Employment Litigation

Labor and employment litigation is costly, often unnecessary and almost always the least effective way to achieve a favorable result. Because of the intense emotions involved, it usually takes more time to resolve this type of litigation than other types.

We have been extremely successful helping clients avoid this waste of resources. A primary reason for this success is Win². Developed by our firm, this process enables parties to a filed or threatened lawsuit to assess at an early stage whether the dispute can be resolved constructively, before they spend huge amounts on legal fees and their positions harden.

Win² is designed to resolve most employment litigation within two months of a lawsuit being filed. Win² is based on a collaborative discussion model. Parties exchange information voluntarily at the beginning of a lawsuit or a dispute. Most disputes or lawsuits in which we have used Win² (more than 50) have been resolved without significant discovery, cost or disruption to our client's operations. Some disputes, of course, can be resolved only with a lawsuit or administrative proceeding. In that event, we vigorously and tenaciously represent our clients.

Our lawyers have experience defending a broad spectrum of businesses and other organizations against a variety of claims, including

- ▶ Discrimination
- ▶ Harassment
- ▶ Wrongful discharge
- ▶ Whistle-blower and other retaliation
- ▶ Common law torts such as defamation and infliction of emotional distress
- ▶ Violation of wage and hour laws
- ▶ Employee benefits laws

We also represent employers in disputes involving noncompetition and nondisclosure clauses as well as other employment-related contract provisions.

Download the Win² brochure.

Training

Garvey Schubert Barer believes strongly in the value of employment-related trainings. Training is a cost-effective way for a business, particularly its managers, to learn how to knowledgeably and successfully prevent and resolve a variety of workplace issues.

Our training sessions provide practical, easy-to-understand content and are tailored for the particular audience. To keep attendees interested and engaged, the sessions mix lecture, visuals and audience participation. In almost all our trainings, the focus is on having people learn by doing. Real-world scenarios are worked through by participants, equipping them with practical tools. Participants consistently rate our trainings very highly and our speakers are considered some of the best in their fields.

These trainings programs cover a broad spectrum of topics. Those commonly requested include the following:

- ▶ Basic managerial skills such as interviewing and hiring, performance reviews, and discipline and termination
- ▶ Proper administration of injured and ill workers, including Family and Medical Leave Act and Washington State's Family Care Act basics, Americans with Disabilities Act and state disability law, and managing chronic absenteeism
- ▶ Wage and hour basics including employee classification, meal and rest periods, on-call and travel time, and working off the clock
- ▶ Investigating harassment and other complaints
- ▶ Preventing harassment/discrimination
- ▶ Guidelines for legally permissible conduct by managers encountering union-organizing activity
- ▶ Preventing and addressing workplace violence, fraud and theft
- ▶ Diversity and cultural awareness seminars and workshops

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