

## MORRIS L. HAWK



**MORRIS L. HAWK** is a Partner in the Cleveland office of Weston Hurd LLP. He represents privately-owned and publicly-held corporations in matters involving labor and employment law, workers' compensation, commercial litigation, construction and gaming law. Morris received his B.A. *summa cum laude* from Ohio University and his J.D. in 1995 Case Western Reserve University, where he was Associate Editor and Contributing Editor of the *Case Western Reserve University Law Review*. In

addition to his Ohio Bar admission, Morris also has admission before the United States District Court for the Northern District of Ohio, the United States District Court for the Southern District of Ohio and the United States Court of Appeals for the Sixth and Eighth Circuits. He is a member of the Cleveland Metropolitan Bar Association and the Ohio State Bar Association.

### Contact Information

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### REPRESENTATIVE MATTERS

#### WORKERS' COMPENSATION

- ) Has been practicing labor and employment law since 1995 and has more than five years of experience in handling workers' compensation claims.
- ) Workers' compensation experience includes representing employers before the State Industrial Commission and in the Court of Common Pleas on appeals.

#### TRADITIONAL LABOR LAW: Litigation and Counseling Experience

- ) Successfully defended private and public employers in labor arbitrations involving numerous issues, including discharge, seniority rights, subcontracting, implementation of reasonable work rules and incentive wage rate disputes.

- ) Extensive experience representing employers before the National Labor Relations Board involving numerous issues, including unlawful surveillance, discriminatory discharge, unlawful implementation of no-solicitation policy, and duty to bargain issues.
- ) Successfully represented Fortune 100 company before the National Labor Relations Board against union unfair labor practice charge alleging that company's lockout of employees was unlawful and that company bargained in bad faith.
- ) Successfully represented major Cleveland bulk produce distributor in fact-intensive representation hearing over definition of bargaining unit, ultimately resulting in successful decertification election.
- ) Served as lead and second chair in collective bargaining negotiations for private and public employers.
- ) Assisted municipality in collective bargaining negotiations, achieving significant concessions relating to health care costs and wages across all bargaining units.
- ) Assisted nursing home in implementing bargaining strategy to achieve concessions in wages, benefits and work rules to reduce expenditures and remain competitive in the marketplace.
- ) Counseled private and public employers on numerous traditional labor law issues, including bargaining unit accretion, successorship, duty to bargain, single employer/alter ego issues.
- ) Assisted several owners of unionized construction companies in successfully planning for and launching nonunion companies.
- ) Extensive experience in union avoidance campaigns, including successful campaigns for major tire manufacturer, major Cleveland bulk produce distributor, ink manufacturer and parking lot company.
- ) Successfully defended a major tire manufacturer company in a subpoena enforcement action brought by the National Labor Relations Board in the District of Columbia Circuit Court of Appeals.
- ) Prevailed at summary judgment for various clients on hybrid Section 301/breach of duty of fair representation claims.

#### **EMPLOYMENT LAW: Litigation Experience**

- ) Extensive employment litigation experience, including first chair jury trial experience, depositions of fact and expert witnesses, motion practice, and appellate advocacy before the Sixth Circuit Court of Appeals, the District of Columbia Circuit Court of Appeals, and the Eighth and Ninth Appellate Districts of Ohio.
- ) Extensive experience representing employers before the Industrial Commission of Ohio and on O.R.C. 4123.512 appeals in common pleas court.
- ) Prevailed at summary judgment on behalf of clients on a broad range of employment claims, including ADA, FMLA, ADEA, Title VII, state discrimination claims, and wrongful discharge in violation of public policy claims.
- ) Extensive experience working on behalf of clients with insurers in litigation and litigation management.
- ) Obtained dismissal of racial harassment claim brought against Cleveland manufacturer.

- ) Obtained dismissal of sexual harassment claim brought against national construction contractor.
- ) Obtained injunctive relief enforcing non-competition agreements on behalf of a major Cleveland bulk food distributor and a construction company.
- ) Extensive experience in conducting internal investigations of claims of discrimination, including sexual harassment, retaliation, and age discrimination.
- ) Conducted pre-suit investigation and analysis of FLSA collective action claim for Fortune 500 company.
- ) Prepared numerous position statements in response to EEOC and OCRC charges that resulted in “no probable cause” determinations for clients.
- ) Achieved favorable administrative resolution of a Department of Labor investigation of potential wage and hour violations for a Cleveland restaurant chain.
- ) Achieved favorable settlement of Department of Labor investigation of potential violations regarding employment of H1B workers for computer software company.
- ) Significant experience representing clients in OSHA compliance and enforcement matters, including representation of Fortune 500 telecommunications company in OSHA litigation over training for utility pole-climbing, representation of manufacturer in OSHA investigation and litigation concerning punch press machines.
- ) Extensive experience negotiating resolutions to employment claims.

#### **EMPLOYMENT LAW: Counseling Experience**

- ) Extensive experience counseling employers on all aspects of employment law, including ADA, ADEA, FCRA, FMLA, FLSA, the WARN Act, COBRA, Title VII and immigration compliance matters.
- ) Provided practical advice for employers on best practices for terminating problem employees, instituting reductions in force, and achieving EEO/AAP, FLSA and I-9 compliance through internal audits.
- ) Prepared numerous employee handbooks and updated employment policies for both large and small employers, including a major tire manufacturer, a regional food distributor, and a financial services company.
- ) Conducted training sessions for HR representatives and front-line supervisors on proper evaluation of employee performance, documentation of substandard performance, and legal obligations regarding employee sick leave.
- ) Provided advice to numerous clients, including a major tire manufacturer, a nursing home, and an ink manufacturer regarding the intersecting obligations of the ADA, the FMLA, and Ohio’s workers’ compensation law.
- ) Prepared H1B visa applications for rapidly-growing computer software company and advised company in developing employment practices compliant with federal law.
- ) Counseled litigation services company on pre-hire personality testing and various issues arising from institution of flex time program.
- ) Assisted major jewelry retailer in instituting bonus programs for various classes of employees nationwide in compliance with the FLSA.
- ) Audited payment practices of fast-growing warehousing client to ensure compliance with FLSA.
- ) Drafted numerous non-competition agreements and employment agreements.

- ) Advised major Cleveland bank on issues related to FCRA compliance and compliance with 18 U.S.C. 1829.
- ) Advised Cleveland bank on adoption of compensation for mortgage loan originators in compliance with new Dodd-Frank requirements.

#### **ERISA: Counseling and Litigation Experience**

- ) Significant experience drafting summary plan descriptions and assisting employers on compliance issues related to qualified plans.
- ) Achieved successful resolution for a privately-owned steel manufacturer in breach of fiduciary duty claim against a former corporate officer and a related ERISA claim by the former corporate officer seeking payment of benefits allegedly owed under a top-hat plan.
- ) Represented major Cleveland bulk food distributor that withdrew from multiemployer pension plan in dispute over the proper calculation of its withdrawal liability, resulting in a \$7 million reduction in liability.
- ) Counseled administrative committee of pension plan on complex issues regarding potential breach of fiduciary duty under ERISA arising from purchase of unregistered securities by plan participants and appropriate remedial measures to achieve compliance with relevant securities law.

#### **COMMERCIAL LAW: Litigation and Counseling Experience**

- ) Extensive commercial litigation experience, including first chair jury trial experience, with concentrations in real estate, construction, ERISA and workers compensation.
- ) Represented gaming-related vendor before the Ohio Casino Control Commission, achieving favorable changes to regulations governing industry prior to final adoption of regulations by working closely with the Commission culminating in successful application for licensure (the first to file in Ohio) and pending delivery of product (the first to ship).
- ) Extensive class action litigation experience, particularly involving claims against employers alleging unlawful reductions in retiree medical benefits.
- ) Successfully defended a general contractor against a copyright infringement claim in an arbitration proceeding.
- ) Achieved high six figure settlement for developer in a lease dispute with the federal government.
- ) Represented general contractor in dispute with subcontractor and insurance company through summary judgment, achieving settlement representing 80% of recoverable damages.
- ) Significant product liability experience on behalf of a Fortune 500 company.
- ) Prepared an opinion letter for a major Cleveland hospital that was relied upon to achieve successful pre-litigation resolution of potential breach of contract claim in commercial dispute.
- ) Achieved favorable settlements for large machine tool manufacturer and propane distributor in disputes with municipalities over "claw-back" provisions in economic incentive agreements.
- ) Assisted in the criminal defense of an executive accused of insider trading, including the preparation of a detailed analysis of the evidence presented against our client.