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## LABOR AND EMPLOYMENT

At Goldberg Segalla, we serve the day-to-day needs of employers of all types and sizes throughout the Northeast and the entire United States.

We are a forerunner in labor and employment law, with attorneys who are committed to a team approach to client service, client relations, and practice management. We believe strongly in teamwork, preferring to work alongside management (hand-in-hand) to assure that its goals and philosophies are advanced.

### Focusing on employers

Our attorneys are interested in only the employer's side of labor and employment issues. We counsel ownership/management on all matters relating to an employer's relationship to prospective, current and former employees. Every day, we provide business owners and managers with practical, balanced advice and daily counseling, supported by our wealth of experience in negotiation, litigation, and courtroom issues.

The attorneys at Goldberg Segalla are familiar with state and federal statutes and regulations, as well as decisions of the state and federal courts and agencies that directly affect an employer's ability to profitably operate its business. Even with this extensive knowledge base, we are committed to staying abreast of the laws impacting the workplace. For this reason, we are staffed so that we can stay on top of the rapidly developing field of labor and employment law.

### Consider our knowledge

Our experienced litigation counsel have successfully represented employers against all types of unfair labor practice charges, claims of sexual harassment and gender discrimination, and allegations relating to age, race, gender, and disability discrimination.

We routinely handle a full range of employment and labor issues, with particular experience in the following representative practice areas:

- Administrative agency/tribunal matters
- Age Discrimination in Employment Act
- Alternative dispute resolution
- Americans with Disabilities Act
- Civil Rights § 1983 Claims
- Class action defense
- COBRA
- Collective bargaining
- Disciplinary Proceedings (Successfully represented the Erie County Water Authority in sustaining the discharge of an employee under section 75 of the Civil Service Law, despite a hearing officer's recommendation that the employee receive a reprimand. Matter of Kocur v. Erie County Water Authority, 9 A.D. 3d 910 (4th Dept. 2004))
- Discrimination Claims - Title VII
- Drug and alcohol testing
- Employee benefits
- Employment contracts
- Employment practices liability insurance

- Equal Pay Act
- ERISA
- Fair Labor Standards Act
- Family and Medical Leave Act
- Handbooks and personnel policies
- Health Insurance Plans for Employees
- Immigration
- National Labor Relations Act
- New York State Human Rights Law
- New York State Public Employment Relations Board
- New York State Labor Law
- Non-competition agreements
- Occupational Safety and Health Act
- Older Workers Benefits Protection Act
- Rehabilitation Act of 1973
- Retaliation claims (Successfully represented the Niagara Frontier Transportation Authority in the dismissal of a whistle-blower action. *Mark Palmer V Niagara Frontier Transportation Authority*, 56 A.D.3d 1245; 867 N.Y.S.2d 318 (4th Dept. 2008))
- Unemployment
- Viet Nam Veterans Employment and reemployment Act
- WARN Act
- Workplace violence
- Wrongful discharge

Goldberg Segalla offers exemplary service, wisdom and experience at reasonable hourly rates. Because of this, we are the first and last resource for business owners, managers and employment practices liability insurers in labor and employment law.

#### **ADVICE, COUNSELING, AND TRAINING**

Our attorneys believe clients are best served through preventive measures such as careful policy drafting and effective training. To that end, we are often on-site with employers, providing services such as:

- Identifying ways to strengthen personnel policies
- Offering innovative solutions to workplace challenges surrounding the hiring, discipline, promotion and discharge of employees
- Negotiating and drafting separation/severance agreements
- Drafting employment manuals and handbooks
- Developing necessary and practical policies and procedures

In addition, we provide training for employees, supervisors, and managers on a wide array of topics, including preventing unlawful harassment and discrimination in the workplace, conducting effective workplace investigations, and addressing workplace violence issues.

Of particular note, our attorneys are well positioned to advise you on policies regarding the usage of electronic devices, electronic mail, and social media.

## **TRADITIONAL LABOR LAW**

Our labor and employment attorneys understand and recognize the unique issues that arise when representing employers before the National Labor Relations Board. Our experience includes:

- Filing and defending against unfair labor practice charges (Successfully represented the employer, Quebecor World Buffalo, Inc. in unfair labor practice proceedings involving Local 17B of the Graphic Communications Conference of the International Brotherhood of Teamsters, Case 3–CB–8648:  
[http://www.nlr.gov/shared\\_files/Board%20Decisions/353/3534.pdf](http://www.nlr.gov/shared_files/Board%20Decisions/353/3534.pdf))
- Conducting labor negotiations, including representation during State and Federal mediation.
- Litigating issues relating to collective bargaining agreements
- Handling grievance arbitrations and disciplinary procedures. (Successfully represented the Erie County Water Authority in sustaining the discharge of an employee under section 75 of the Civil Service Law, despite a hearing officer's recommendation that the employee receive a reprimand. Matter of Kocur v. Erie County Water Authority, 9 A.D. 3d 910 (4th Dept. 2004))(GS-BUFFALO-#683611-Kocur v ECWA)( Representing the City of Buffalo in a proceeding under the Civil Service Law to remove its Human Resources Commissioner) (Tempestuous Thomas hearing concludes - City Hall - The Buffalo News)
- Litigation related to arbitrability, the enforcement of an Award, and seeking vacature of an Arbitration Award.(In the matter of Chautauqua County v. Civil Service Employees Association, 8 N.Y. 3d, 513 (2007), represented Chautauqua County in obtaining a reversal of a Fourth Department Order refusing a stay of arbitration as the Court of Appeals ruled that section 80 of the Civil Service Law could not be waived in a collective bargaining agreement.) (Obtained the vacature of an arbitration award involving an appointment under section 61 of the Civil Service Law in Buffalo Police Benevolent Association, Inc. v. City of Buffalo, 4 N.Y.3d 660 (2005).
- Conducting workplace investigations and audits

## **UNFAIR COMPETITION/TRADE SECRETS**

At Goldberg Segalla, we regularly provide advice and counseling to employers regarding the protection and preservation of confidential and proprietary information, along with the drafting and enforcement of non-competition and confidentiality agreements. Our attorneys understand the value and importance of protecting and preserving customer goodwill, as well as the most effective ways to eradicate and/or remedy the consequences of disloyal or damaging conduct by current or former employees.

When litigation is necessary, we are experienced in effectively and efficiently seeking preliminary and injunctive relief, as needed, to best protect a client's legitimate business interests from the detrimental effects of unfair competition by unscrupulous employees and/or others.

## **WORKPLACE HEALTH, SAFETY, AND VIOLENCE**

Our attorneys regularly assist employers from a wide variety of industries with compliance under the broad array of workplace safety and health statutes, rules, and regulations. We have

many years of experience helping employers determine which safety and health standards apply to their situations. In addition, we can help protect and defend their interests during safety and health inspections, audits, and investigations.

### **DEALING WITH ADMINISTRATIVE AGENCIES**

Our attorneys have considerable experience and familiarity in representing employers before the National Labor Relations Board, the Public Employment Relations Board, the United States Equal Employment Opportunity Commission, the Occupational Health and Safety Administration, the New York State Division of Human Rights, the Department of Labor, the Worker's Compensation Board, and the Unemployment Insurance Appeals Board. We are prepared to assist you once you are notified of a filing and in any appearance before such agencies. We have obtained numerous dismissals of claims against employers in these agencies, and we have also successfully represented employers at hearings and in appeals before these tribunals.

We have particular experience in dealing with wage payment and actions to enforce the overtime provisions of the Fair Labor Standards Act.

### **DEALING WITH EMPLOYEE ABSENCES AND LEAVE ISSUES**

We recognize that issues involving employee absences and requests for leaves of absence can be very difficult for employers to deal with on their own. The Family and Medical Leave Act, the Americans with Disabilities Act, the New York State Human Rights Law, and the Workers' Compensation Law may contradict or overlap each other. Our attorneys can assist you in dealing with problems related to employee absenteeism as well as particular employee leave requests.

### **DEALING WITH EMPLOYEE HARASSMENT COMPLAINTS**

Goldberg Segalla is prepared to assist employers in the development on successful internal anti-harassment policies and procedures that will assist in the defense of any harassment complaint. In addition, we can also provide employee and supervisory training, assistance with investigations, and guidance in the event that it is necessary to make disciplinary or other remedial decisions.

### **PUBLIC SECTOR LABOR AND EMPLOYMENT**

Our Labor and Employment attorneys have been representing Public Authorities, Counties, Cities, School Districts, Towns, Villages, and other municipalities in every capacity involving labor and employment law issues, including collective bargaining negotiations, contract administration, and grievance arbitration. We regularly represent public employers in collective bargaining negotiations, often serving as chief negotiator. We have considerable experience and familiarity in representing employers in any proceeding before the Public Employment Relations Board, mediation and fact-finding proceedings. Mr. Beiter also represents employers in disciplinary proceedings (Successfully represented the Erie County Water Authority in sustaining the discharge of an employee under section 75 of the Civil Service Law, despite a hearing officer's recommendation that the employee receive a reprimand. *Matter of Kocur v. Erie County Water Authority*, 9 A.D. 3d 910 (4th Dept. 2004)( Representing the City of Buffalo in a proceeding under the Civil Service Law to remove its Human Resources Commissioner) (**TEMPESTUOUS THOMAS HEARING CONCLUDES - CITY HALL - THE**

**BUFFALO NEWS**) and contract dispute arbitrations. Our attorneys have particular experience in representing employers in compulsory interest arbitration proceedings involving police and fire departments. *County of Erie and the Erie County Sheriff's Police Benevolent Association* ([HTTP://WWW.PERB.STATE.NY.US/PDF/IA2010-11/IA2009-007.PDF](http://www.perb.state.ny.us/pdf/ia2010-11/ia2009-007.pdf))

- *County of Erie and the Erie County Sheriff's Police Benevolent Association* (<http://www.perb.state.ny.us/pdf/ia2007-8/ia2006-020.pdf>)
- *City of Buffalo and the Buffalo Professional Firefighters Association* (<http://www.perb.state.ny.us/pdf/ia2005-6/ia2003-020.pdf>)
- *City of Buffalo and the Buffalo Police Benevolent Association* (<http://www.perb.state.ny.us/pdf/ia2002-3/ia201-003.pdf>)
- *City of Buffalo and the Buffalo Professional Firefighters Association* (<http://www.perb.state.ny.us/pdf/ia2000-1/ia099-024.pdf>)
- *City of Buffalo and the Buffalo Police Benevolent Association* (<http://www.perb.state.ny.us/pdf/ia1997-8/ia96-035.pdf>)

Our attorneys have had occasion to represent public sector employers in various matters in Court, including appeals of PERB decisions (*In the matter of County of Erie and the Erie County Sheriff v. the New York Public Employment Relations Board*, 12 N.Y. 3d 72 (2009) ([HTTP://WWW.NYCOURTS.GOV/CTAPPS/DECISIONS/2009/FEB09/13OPN09.PDF](http://www.nycourts.gov/ctapps/decisions/2009/FEB09/13OPN09.pdf)) successfully represented the County and the Sheriff in obtaining a reversal of a Fourth department and PERB ruling that the County violated the Taylor Law when it refused to bargain over the transfer and housing of prisoners.), Petitions to Stay Arbitration, Petitions to vacate arbitration, and litigation regarding the wage freeze ordered by the Buffalo Fiscal Stability Authority. (Successfully represented the City in wage freeze litigation in *Foley v. Masiello*, 38 A.D.3d 1201 (4th Dept 2007) and in *Meegan v. Masiello*, 21 A.D.3d 1266 (4th Dept 2005).

We have also represented public employers in discrimination claims in Federal Court, State Court, the State Division of Human Rights, and the Equal Employment Opportunity Commission.