# David E. Constine III

Partner

Richmond

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## OVERVIEW

David is a partner in the firm's Labor + Employment Practice Group. His practice encompasses litigation and counseling relating to Title VII, ADEA, ADA, Executive Order 11246, FLSA, ERISA, and all federal and state employment laws, including litigation and counseling related to personnel manuals, employment contracts, employee benefits, noncompetition agreements, whistleblowers, trade secret protections, and other personnel matters. David is also very experienced in the defense of disability, life, and health insurance claims under ERISA and otherwise, as well as general civil rights litigation and constitutional torts.

## REPRESENTATIVE MATTERS

- *Towne Mortgage, Inc. v. Atlantic Bay Mortgage Group*, (Brown County, Wisconsin Cir. Ct. 2017) (obtained decision of case claiming noncompete, conspiracy, breach of fiduciary violations).
- *Citizant, Inc. v. Nigro and Tran*, (Cir. Ct. Loudoun Co. 2015) (obtained judgment for defendants in trial involving noncompete and other business limits).
- *Smith v. Anthem, Inc.*, (E.D. Va. 2016) (defended summary judgment for employer on ADA and Title VII claims).
- *Wise-Senior v. Anthem, Inc.*, (E.D. Va. 2016) (obtained summary judgment for employer on federal whistleblower claims).
- *True Blue, Inc. v. Ferguson Enterprises*, (E.D. Va. 2015) (defeated attempt to enforce covenant not to compete).
- *Fine v. Sun Life Assurance Co.*, (E.D. Va. 2016) (obtained summary judgment for defendant insurer in ERISA case claiming millions of dollars in employee benefits).
- *Collins v. Unum Life Ins. Co. of Am.*, (4th Cir. 2017) (obtained summary judgment for insurer in federal court that was affirmed by 4th Cir. in claim seeking employee life insurance benefits).
- *Suter v. Unum Life Ins. Co. of Am.*, (E.D. Va. 2017) (obtained summary judgment for insurer in claims seeking employee life insurance benefits).
- *Allan v. WCI Communities, Inc.,* Civil Action No.: 3:99cv19 (E.D. Va. 1999) (obtained jury verdict for defendant real estate developer on the claim of plaintiff, the former chief financial officer, that the defendant had breached his employment agreement).
- *Martin v. Scott & Stringfellow, Inc.,* FINRA No. 06-01589, (2008) (defended securities broker-dealer in claim of wrongful termination for former commercial mortgage backed securities broker and prevailed after three-day arbitration).
- *Ilozor v. Hampton University*, 07-1463 (4th Cir. 2008) (represented defendant in discrimination claims brought

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by former architecture professor and prevailed on summary judgment).

- *Cardiac Thoracic Surgical Assoc. v. Katz, et al.* (Cir. Ct. City of Richmond 2007) (obtained dismissal of multicourt complaint alleging breach of noncompete and breach of fiduciary duty).
- *Spinner v. Anthem Healthcare,* (W.D. Va. 2008) (obtained dismissal of six-count ERISA complaint for health care benefits valued at $1.2 million).
- *Lester v. AREVA,* 6:06cv15 (W. D. Va. 2008) (obtained summary judgment for employer and plan in claim for pension benefits).
- *Collier v. Gumenick Properties,* CL08-424 (Henrico Cir. Ct. 2008) (obtained dismissal of multicourt sexual harassment claim).
- *Whitten v. Hartford Life Ins. Co.,* (4th Cir. 2007) (obtained judgment for Hartford in ERISA case applying de novo standard of review).
- *Dillon v. Anthem Healthcare,* 7:07cv69 (W.D. Va. 2007) (obtained summary judgment in ERISA case seeking health care benefits).
- *Diggs, et al. v. Commonwealth Public Broadcasting,* 3:03cv948 (E.D. Va. 2004) (obtained dismissal of collective action age discrimination claims prior to class certification).
- *O'Brien v. Scott & Stringfellow, Inc.,* 3:06cv213 (E.D. Va. 2006) (obtained dismissal of ADA claims benefit by investment banker).
- *Williams v. Scott & Stringfellow, Inc.,* 3:06cv202 (E.D. Va. 2006) (obtained dismissal of ADA claims brought by bond trader).
- *White v. Town of Warrenton,* (2007) (obtained verdict for Town from three-judge panel after administrative trial in wrongful discharge claim brought by police sergeant).
- *Chanin v. Eastern Virginia Medical School* , 20 Va. App. 487, 459 S.E.2d 523 (1995) (represented defendant in claim brought by doctor employee claiming she contracted multiple chemical sensitivity syndrome at work. Judgment for defendant after trial and prevailed on appeal).
- *Turf-Care v. Hall,* Chancery No. CH98-1490 (Henrico County Circuit Court 2000) (obtained verdict for plaintiff in claim against former officer who had breached fiduciary duties and usurped corporate opportunities).
- *Sales v. Grant, et al.,* Civil Action No.: 96-0027-L (W.D. Va. 2001) (obtained jury verdict for two former assistant voting registrars for the City of Lynchburg in a case alleging that they were not reappointed to their positions because of their political affiliation), see also 158 F.3d 768 (4th Cir. 1998) and 224 F.3d 293 (4th Cir. 2000).
- *Arnold v. Grant, et al.,* Civil Action No.: 95-0013-L (W.D. Va. 1995) (represented plaintiff voter registrar for the City of Lynchburg and obtained jury verdict in a case alleging discrimination based on her political affiliation).
- *HCA Health Services of Virginia, Inc. v. AmeriHealth, Inc.*, 1995 U.S. App. LEXIS 25591 (successfully defended welfare benefit plan in an ERISA case where the plaintiff hospital sued to recover more than $750,000 in medical expenses associated with the premature birth of a child born to one of the plaintiff's participants. Obtained verdict after trial and also prevailed on appeal).
- *Barnett v. Technology International, Inc.,* 1 F. Supp.2d 572 (E.D. Va. 1998) (obtained summary judgment for defendant in a case alleging national origin discrimination).
- *Mason v. Riddick,* 1996 U.S. Dist. LEXIS 19349 (E.D. Va. 1996) (obtained summary judgment for defendant cotton gin in a case brought by four plaintiffs alleging race discrimination).
- *Dade v. Anderson*, 247 Va. 3 (Va. 1994) (represented the estate in a claim brought by the wife of a decedent to recover from the estate for nursing services rendered by her during his lifetime. Judgment obtained for the defendant and successfully prevailed in the Supreme Court of Virginia).

## AWARDS

- *Business Today*: Top 10 Virginia Labor & Employment Lawyers (2023)
- *Virginia Lawyers Weekly*: "Go To Lawyers" – Employment Law (2021, 2024)
- *Thomson Reuters* Stand-out Lawyer (2018, 2020-2021, 2023-2026) – independently rated lawyers
- *Best Lawyers in America*®: Employment Law – Management (2011-2027), Litigation – Labor and Employment (2015-2027)

- *Super Lawyers®:* Virginia (2006-2021)
- *Best Lawyers in America*®: “Lawyer of the Year” in Litigation – Labor and Employment (2015, 2016, 2020)
- *Chambers USA*: Labor & Employment, Virginia (2004-2026)
- *Virginia Business Magazine*: “Legal Elite” Labor and Employment Law (2001-2017, 2020-2023, 2025)
- *BTI Consulting Group*: “BTI Client Service All-Star” (2012, 2015)
- *Super Lawyers*: “Top 100 Lawyers” (2012)
- *Super Lawyers Corporate Counsel Edition:* Employment & Labor Law (2008, 2011)
- Member, Harry S. Carrico Faculty on Professionalism, Virginia State Bar

## TOP AREAS OF FOCUS

- Employment Counseling
- Labor + Employment
- Labor + Employment Litigation + Dispute Resolution

## ALL AREAS OF FOCUS

- Business Litigation
- Digital Health
- Employment Counseling
- Labor + Employment
- Labor + Employment Litigation + Dispute Resolution
- Litigation + Trial
- Managed Care Payor Disputes, Investigations + Regulatory Counseling
- Noncompete + Trade Secrets

## PROFESSIONAL/COMMUNITY INVOLVEMENT

- Richmond Bar Association
- Virginia Bar Association (Executive Council, Labor and Employment Law Section, 1997-2003)
- American Bar Association (Sections on Litigation, Labor and Employment Law)
- Board of Directors, Sheltering Arms Physical Rehabilitation Hospital, 1999-present
- Board of Directors, Cystic Fibrosis Foundation – Virginia Chapter, 2002-present
- National Leadership Council, Cystic Fibrosis Foundation, 2002-2007
- Former Board of Directors, Memorial Child Guidance Clinic
- Former Board of Directors, American Lung Association of Virginia
- Former Board of Managers, Beth Ahabah Temple
- Former president, Beth Ahabah Museum and Archives Trust
- Leadership Metro Richmond, Class of 1994

## EDUCATION AND CERTIFICATIONS

### EDUCATION

- University of Virginia School of Law, J.D., 1983

- Washington and Lee University, B.A., *summa cum laude, Phi Beta Kappa, Omicron Delta Kappa*, 1980

**BAR ADMISSIONS**

- Virginia

**COURT ADMISSIONS**

- U.S. Court of Appeals, Fourth Circuit
- U.S. District Court, Eastern District of Virginia
- U.S. District Court, Western District of Virginia
- Supreme Court of the United States
- Supreme Court of Virginia

**CLERKSHIPS**

- Hon. Albert V. Bryan, Jr., U.S. District Court, Eastern District of Virginia, 1983-1984

## SPEAKING ENGAGEMENTS

- 46th Annual Construction Law and Public Contracts Seminar 2025, "Restrictive Covenants in Virginia—An Update on the Law and Practice Tips for Drafting Enforceable Covenants."
- Annual Symposium of VBA Labor and Employment Law Section, "Litigating ERISA Benefit Claims."
- Bar Association of City of Richmond, Continuing Legal Education Speaker, "Current Developments in Employment Law" and "Injunctions."
- Council on Education Management, "Sexual Harassment – The Issue That Won't Go Away."
- Defense Research Institute National Seminar – "Managing Complex ERISA Claims."

## PUBLICATIONS

- Co-author, "The Expanding Patchwork of State Paid Family and Medical Leave Laws: What Employers Should Know," *Troutman Pepper Locke*, August 26, 2026.
- Co-author, "Virginia's 2026–2028 Employment Law Changes: What Employers Need to Know," *Troutman Pepper Locke*, June 10, 2026.
- Co-author, "Virginia Enacts Statewide Paid Family and Medical Leave Program," *Troutman Pepper Locke*, May 15, 2026.
- Co-author, "Virginia Enacts New Restrictions on the Use of Noncompetes," *Troutman Pepper Locke*, April 13, 2026.
- Co-author, "Changes to Virginia's Noncompete Statute," *Troutman Pepper Locke*, May 13, 2025.
- Co-author, "Virginia Legislature Makes Changes to Employment Law," *Troutman Pepper*, June 29, 2023.
- Co-author, "Maryland Legislature Passes the Time to Care Act, Overriding Governor's Veto," *Troutman Pepper*, April 13, 2022.
- Co-author, "Virginia General Assembly Enacts Two Statutes Mandating Accommodations," *Troutman Pepper*, October 19, 2021.
- Co-author, "DOLI Revises COVID-19 Regulations For Virginia Employers," *Troutman Pepper*, October 14, 2021.
- Co-author, "Virginia Enacts Sweeping Changes to Overtime Laws, Increasing Compliance Challenges and Employer Penalties," *Troutman Pepper*, April 19, 2021.

- Contributing author to “A Virginia Employer’s Guide to Hiring, Firing, and Discipline,” 2010 and 2009 edition, published by the Virginia Chamber of Commerce.