

**Jeffrey M. McPhaul**

Partner

Houston

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Jeff is a savvy and experienced labor and employment counselor and litigator. His clients turn to him for practical and timely guidance on a range of employment law issues to ensure legal compliance, manage risk, and obtain efficient and favorable resolution of disputes.

**OVERVIEW**

Board Certified in Labor & Employment Law by the Texas Board of Legal Specialization, Jeff provides comprehensive advice to employers on all aspects of employment law. He represents employers in litigated employment matters in state and federal courts, arbitration proceedings, and before administrative agencies on a wide variety of issues, including discrimination, harassment, retaliation, wage and hour disputes, and breaches of fiduciary duties. Jeff also handles the defense and enforcement of covenants not to compete and non-solicitation agreements, OSHA complaints, misappropriation of trade secrets, and non-subscriber cases.

On the counseling and transactional side of his practice, Jeff supports a wide range of commercial matters, including negotiating separation and other agreements on behalf of management teams and executives. He advises employers on numerous aspects of the employer/employee relationship, such as drafting and revising employment contracts, policies, and procedures; compliance with federal and state law in hiring, including under the Fair Credit Reporting Act and state and federal anti-discrimination laws; internal investigations; leaves of absence under the Family Medical Leave Act; reasonable accommodation issues under the Americans with Disabilities Act; and separations and disciplinary actions.

Jeff also routinely works on deal teams supporting mergers and acquisitions from an employment law standpoint. He also has significant experience representing executives in the negotiation of the terms and conditions of their employment or their separation.

**REPRESENTATIVE MATTERS****Title VII + Related Tort Claim Experience (Discrimination, Harassment, Retaliation, Intentional Infliction of Emotional Distress Claims)**

- Obtained summary judgment for national oil and gas services company in matter involving claims of sex discrimination.
- Obtained summary judgment for regional pharmacy in matter involving claims of sex discrimination.

- Represented national oil and gas services company in arbitration proceeding involving age discrimination and common law wrongful termination claims.
- Represented national retail company in multiple litigation matters involving claims under Title VII, the Age Discrimination in Employment Act, the Texas Labor Code, state workers' compensation statutes, and state common law.
- Represented regional credit union in multiple litigation matters involving claims under Title VII and the Texas Labor Code.
- Advised and counseled employers on proper handling and investigation of employee complaints and charges of discrimination.
- Obtained dismissal of numerous charges of discrimination, harassment, and retaliation brought to the EEOC or comparable state or local agencies.

### **Trade Secret, Non-Competition, Non-Solicitation Experience**

- Represented international waste disposal company in bench trial of declaratory judgment action involving enforceability of restrictive covenants.
- Represented national oil and gas services company in three-day temporary injunction hearing in matter involving claims of trade secret misappropriation and violations of restrictive covenants.
- Represented international waste disposal company in two-day temporary injunction hearing in matter involving claims of trade secret misappropriation and violations of restrictive covenants.
- Represented financial advisory firm at temporary injunction hearing involving claims of trade secret misappropriation and violations of restrictive covenants.
- Obtained multiple temporary restraining orders, temporary injunctions, and permanent injunctions on behalf of international waste disposal company in matters involving claims of trade secret misappropriation and violations of restrictive covenants.
- Obtained multiple temporary restraining orders, temporary injunctions, and permanent injunctions on behalf of national financial advisory firm in matters involving claims of trade secret misappropriation and violations of restrictive covenants.
- Prepared, and provided advice and counsel regarding the enforceability of, numerous non-compete and non-solicitation agreements.

### **Wage and Hour (FLSA) Experience**

- Obtained summary judgment for international drilling contractor in collective and class action proceedings involving claims under the FLSA and Colorado state law.
- Obtained summary judgment for drilling contractor in arbitration proceedings involving allegations of independent contractor misclassification.
- Obtained summary judgment for entertainment client in arbitration proceedings involving allegations of off-the-clock work.
- Defeated conditional certification in multiple collective action matters.
- Counseled clients on proper pay practices and employee classification under the FLSA.

### **FMLA/ADA Experience**

- Obtained summary judgment for international waste disposal company in matter involving claims of failure to accommodate and disability discrimination.
- Successfully defended international waste disposal company in DOL audit related to alleged FMLA interference and retaliation.

- Counseled clients regarding the interactive process and responding to employee requests for reasonable accommodations under the ADA.
- Counseled clients regarding FMLA compliance in administering employee leaves of absence.

### **Transactional Experience**

- Served as subject matter expert in dozens of transactions, including as counsel for both buyer and seller.
- Frequently represent management teams and executives in the negotiation of employment agreements, equity awards, and restrictive covenants.

### **General Business Litigation and Dispute Resolution Experience**

- Represented regional architecture firm in arbitration proceeding involving claims of negligence, breach of contract, and breach of warranty.
- Represented international private equity group in matter involving claims for gross negligence stemming from workplace accident.
- Represented environmental services firm in matter involving claims of breach of contract and violations of the Texas Insurance Code.

### **AWARDS**

- *Houstonia Magazine*, Top Lawyer, Labor and Employment (2022-2023)

### **TOP AREAS OF FOCUS**

- Labor + Employment

### **ALL AREAS OF FOCUS**

- Employment Counseling
- Labor + Employment
- Labor + Employment Litigation + Dispute Resolution
- Litigation + Trial
- Noncompete + Trade Secrets
- OSHA + Workplace Safety
- Wage + Hour Matters

### **PROFESSIONAL/COMMUNITY INVOLVEMENT**

- Houston Bar Association
  - Council member of Labor and Employment Section
  - Member of Fee Dispute Committee
  - Co-chair of Golf Tournament Committee

### **EDUCATION AND CERTIFICATIONS**

#### **EDUCATION**

- University of Houston Law Center, J.D., 2010
- The University of Texas at Austin, B.A., *with honors*, 2006

## **BAR ADMISSIONS**

- Texas

## **COURT ADMISSIONS**

- U.S. District Court, Southern District of Texas
- U.S. District Court, Eastern District of Texas
- All Texas State Courts

## **SPEAKING ENGAGEMENTS**

- Speaker, “Legal Issues Employers Face in 2024: What You Need to Know, Top 10 List: Things to Remember and Things to Prepare for in 2024” Locke Lord, February 21, 2024.
- Speaker, “What Employers Need to Know in 2020: Legal Issues Employers Face in the New Year,” Locke Lord, February 2020.

## **PUBLICATIONS**

- Co-author, “New Leaders, New Focus: Navigating EEOC Updates,” Troutman Pepper Locke, April 3, 2025.
- Author, “EEOC’s Pregnancy Priority: The Commission Sues Three Employers in Lawsuits Alleging Violations of the Pregnant Workers’ Fairness Act,” Locke Lord, October 2024.
- Co-author, “High Court Update: Recent US Supreme Court Rulings Employers Should Know About,” Locke Lord, June 2024.
- Author, “WARN-ing Ahead: Key Considerations and Reminders for Employee Separations in 2023,” Locke Lord, February 2023.
- Author, “Marijuana Criminalization No MORE?” Locke Lord, May 2022.
- Author, “NLRB’s Top Attorney Says College Athletes Are Employees: Here’s What That Means,” Locke Lord, October 2021.
- Author, “Supreme Court Limits Claims Under Computer Fraud and Abuse Act,” Locke Lord, July 2021.
- Co-author, “PNW Heat Wave Leads to Emergency Regulations for Employee Safety,” Locke Lord QuickStudy, July 15, 2021.
- Co-author, “How to Keep a Trade Secret: Texas Supreme Court Weighs in on TUTSA and Sealing of Court Records,” Locke Lord QuickStudy, May 25, 2021.
- Author, “Riding the Green Wave – Considerations for Employers in Dealing With Marijuana Legalization,” Locke Lord, May 2021.
- Author, “Fifth Circuit Adopts More Stringent Approach to Collective Action Certification Under the FLSA,” Locke Lord, February 2021.
- Co-author, “COVID Stimulus Guide: Overview of Key Unemployment Provisions Update,” Locke Lord QuickStudy, December 31, 2020.
- Author, “Class Arbitration – Two Cautionary Tales for Employers,” Locke Lord, November 2020.
- Co-author, “Return to Work Considerations,” Locke Lord QuickStudy, July 31, 2020.
- Author, “Wage and Hour Update: Notable FLSA Developments in 2020,” Locke Lord, July 2020.

- Co-author, “Department of Labor Finalizes Sweeping New Joint Employer Rules,” Locke Lord QuickStudy, February 12, 2020.
- Author, “Year in Review: Notable 2019 Decisions Impacting Arbitration Agreements,” Locke Lord, January 2020.