

LABOR & EMPLOYMENT



Employers face unprecedented workplace regulation and risk. Managing employees has become more difficult, and the potential consequences of mismanagement—or even perceived mismanagement—have become more dire. Husch Blackwell takes a service-first approach to assisting employers. Our labor and employment law team partners with clients to minimize risk and to aggressively solve labor and employment issues, whether through program development, day-to-day counseling, or labor dispute resolution. And when trial is your best option, we are your fiercest advocates.

The attorneys on our labor and employment law team are entrepreneurial and innovative in their approaches, and aggressive and bold in their strategies. We are comfortable in front of juries, and from the moment we are engaged, we prepare cases as if they will be tried before juries. We may not, but we will always be prepared.

Preventative/Counseling

Identifying and eliminating potential risks can help avert legal troubles. Our labor and employment law team counsels employers locally, regionally and nationally on state-of-the-art policy development and implementation and best practices in managing employees. Additionally, we advise on:

Affirmative action programs

Employment Eligibility Verification (I-9) investigations

Collective bargaining agreements

Employee misconduct and whistleblower activity

When we were hit with a complex web of wage and hour class actions, Husch Blackwell was the natural choice. The team's expertise in the substantive legal issues, combined with the investment they made to develop a deep knowledge of our business, has made them a uniquely effective litigation partner.

— Carey L.
Bartell, Vice
President, Chief
Counsel – Legal
& Government
Affairs, Conagra
Brands Inc. —

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Occupational Safety and Health Administration (OSHA) and
Mine Safety and Health Administration (MSHA)

Compliance audits

Employee handbooks, policies, and practices

Leave laws including Family and Medical Leave Act (FMLA)

Americans with Disabilities Act (ADA)

National Labor Relations Act (NLRA)/National Labor Relations
Board (NLRB)

Workers' compensation

Litigation

Employment practices often support business models and
strategic plans. We have the experience and skills to protect
these practices and steer you through the litigation process.
Our national litigation work includes:

Class and collective actions, including wage and hour

Defense of employment discrimination, harassment, and
retaliation claims

Defense of OSHA/MSHA citations, with a rapid response
capability for fatalities and catastrophic accidents

Enforcement and defense of restrictive covenants

Trade secret and other confidential information protection

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Case Study

Conagra Brands

Workers from Conagra's Russellville, Arkansas facility filed a
wage-and-hour class and collective action lawsuit alleging

violations of the Fair Labor Standards Act (FLSA) and the Arkansas Minimum Wage Act (AMWA), claiming that they should have been paid for time spent donning and doffing before and after shifts.

Experience

Merger and Acquisition Integration with HR

Nursing Home Obtained Increased Reimbursement

Substantial Savings with Union Defeat

Representative Experience

Obtained defense verdict on behalf of The Kansas City Southern Railway Co. in a week-long jury trial in St. Louis County, Missouri wherein an employee alleged that KCSR had violated the Federal Employers' Liability Act, Federal Safety Appliance Act and the Locomotive Inspection Act.

Negotiated with OSHA on behalf of a medium-sized medical practice, successfully achieving the elimination of six citations and a penalty reduction of 80%.

Obtained dismissal of a whistleblower complaint filed with OSHA against a client in the cable television sector. The whistleblower accused our client of failing to provide him with certain safety equipment and of retaliating with wrongful termination.

Won summary judgment regarding two different union elections in two different cases, halting the unionization efforts at a major home healthcare provider. Because of this litigation success,

attempts to unionize the client's workforce were prevented.

Defended ConAgra Foods in a class and collective action filed by supervisors seeking overtime compensation alleging they were misclassified as "exempt" under state and federal wage and hour laws. The Eighth Circuit Court of Appeals affirmed summary judgment for ConAgra and found that the supervisors satisfied all tests for the "executive" exemption under the Fair Labor Standards Act (FLSA) and state law. The court also ruled on an issue of first impression and agreed that the plaintiffs were liable to ConAgra for its litigation costs.

Represented ConAgra Foods in a collective action filed by its employees seeking compensation for time spent dressing and undressing before and after their shifts, and walking to their work stations around those dressing activities. The Eighth Circuit Court of Appeals ruled that ConAgra Foods did not violate the Fair Labor Standards Act. Deciding a novel issue of law in the Eighth Circuit, the court agreed that employees need not be paid to walk to or from their work stations when management and the labor union had agreed employees would not be paid for adjacent dressing time.

Defended Missouri-American Water Co. against 26 unfair labor practice charges filed by a union with the National Labor Relations Board. Won 24 of the charges and settled two, with settlements that required the posting of a notice, with no monetary outlay and no finding or admission of liability.

Represented client in lawsuit alleging violations of Fair Labor Standards Act (as well as the Colorado Wage Act and Colorado Minimum Wage Order Number 31) for unpaid overtime wages,

penalties, and fees.

Represented manufacturing company in connection with a multi-year audit of compensation practices by the U.S. Department of Labor, alleging exposure for unpaid time in the range of several million dollars. The Husch Blackwell team successfully persuaded the DoL to conclude its investigation without any finding or assessment of penalty.

Represented university in a novel employment discrimination matter pending before the Wisconsin Equal Rights Division. Following intensive discovery and a multi-day evidentiary hearing, the Husch Blackwell team prevailed with a full dismissal for the client.

Successfully defended energy company in a workplace discrimination lawsuit filed by a former employee who claimed age discrimination, gender discrimination, associational race discrimination, and retaliation.

Assisted and counselled client through a reduction in force involving approximately 10% of its workforce in the spring of 2020.

Led the defense of a class and collective action where plaintiffs claimed unpaid overtime with alleged damages in the seven figures.

Represented Suddenlink in a collective action filed by a group of call center employees who alleged they were not paid for periods of time spent prior to clocking in (booting up computers and other work activities).

Served as labor & employment counsel for a crop improvement

company as the growing AgTech firm went public via a SPAC.