bodman

Workplace Law

power your people

The workplace is a reflection of the economy and society around it. Economic swings and social change impact the workplace and challenge employers.

To succeed, employers must build and maintain a positive, high-performing, cost-effective workplace. Multi-layered, ever changing and expanding, state and federal workplace laws, regulations, and decisions of courts and agencies burden employers in achieving workplace goals and objectives, regardless of business or industry.

Employers need a strategic partner who understands their business goals to overcome the burdens and meet the challenges. Bodman's Workplace Law Group is that partner. We work with employers to meet the increasing need for practical, innovative guidance on workplace issues. Our team has both an in-depth understanding of labor and employment law and a deep appreciation of our clients' need for quick, direct answers to help them achieve concrete objectives. We provide innovative problem solving to promote a more positive workplace.

The Workplace Law Group offers employers a full range of legal services, whether workers are hourly or salaried; technical or professional; blue, green or white collar; or something in between. From talent acquisition to onboarding to layoff, retirement, or separation, we cover policy, process, agreements, union avoidance, litigation, and the bargaining and administration of labor contracts. We help the employer make the workplace really work.

SERVICES

Our philosophy is to prevent and resolve employment and labor disputes by counseling management and human resource professionals on day-to-day employment and labor issues, including:

- **Wage/hour, overtime, and payroll issues**
- **Creation and administration of employment policies, procedures, and handbooks**

- **Health care and fringe benefit programs**
- **Compliance with ADA, FMLA, and Workers' Compensation laws**
- **Cross-border compliance with employment laws of host and guest countries**
- **Discipline and termination, including misconduct investigations**
- **Performance evaluation**
- **Tax qualified employee benefit plans and ERISA compliance**
- **Reductions-in-force, consolidation, and reorganization**
- **Organizational planning**
- **Facility closings and WARN Act**
- **Pre-employment screening, interviewing, and hiring**
- **Privacy and surveillance issues**
- **Substance abuse, including drug and alcohol testing**
- **Avoiding, investigating, and remedying discrimination and harassment**
- **COBRA, HIPAA, and other health-related laws**
- **Union avoidance and union organizing**
- **Labor contract administration, arbitration, and bargaining**
- **Employment contracts, including restrictive covenants and non-compete agreements**
- **Executive compensation agreements**
- **Employment records and documentation**
- **Affirmative action, including OFCC compliance**
- **Workplace violence policy and prevention**
- **Contingent, temporary, and leased employees**
- **Withdrawal from multi-employer pensions**
- **Enforcement and defense of protective agreements such as non-compete, non-solicitation, and non-disclosure agreements**

In instances when preventive action is not effective, we vigorously defend our clients' business decisions in state and federal courts and the varied administrative agencies that scrutinize the workplace including the Equal Employment Opportunity Commission, the Michigan Department of Civil Rights, the National Labor Relations Board, and the U.S. Department of Labor, OSHA, and in arbitrations.

REPRESENTATIVE MATTERS

Our experience spans across the spectrum of traditional labor law and employment counseling and litigation, and our team works with clients across a variety of industries.

AUTOMOTIVE AND MANUFACTURING INDUSTRY

- **Tier-1 Global Automotive Supplier Negotiates New Labor Agreement with UAW; Maintains Two-Tier Wage System**

  We negotiated a new labor agreement with the United Auto Workers Union on behalf of a global Tier-1 supplier. The new agreement is significant in that it maintained a two-tier wage system, which is a hot-button issue for the union, and met our client's budget requirements but presented a fair package that the unionized employees quickly ratified.

- **Manufacturer Prevails Against Litigious Plaintiff Filing Multiple Claims Alleging Violations of the Labor Management Relations Act**

  A manufacturing client asked Bodman to defend a lawsuit alleging violations of the Labor Management Relations Act filed in U.S. District Court in Texas. We served plaintiff and his attorney, who had previously filed multiple lawsuits against our client, with a motion for sanctions, after which the plaintiff withdrew his lawsuit. This matter, which is representative of the national scope of our services, saved our client the cost of a trial or settlement and served as a deterrent to the plaintiff against filing future lawsuits.

- **Tier-1 Automotive Supplier Reduces Workforce**

  Our attorneys assisted a Tier-1 auto supplier in implementing a workforce reduction of more than 1,000. We prepared the separation plan documents, separation agreement and release of claims. In the one lawsuit that resulted from the reductions, we obtained dismissal of the employee's claims of gender and age discrimination and retaliation on summary judgment.

- **Automotive Manufacturer Prevents Union Organization at Its Company**

  We counseled an auto-related manufacturer that a union had targeted for organization. The employees soundly rejected the union campaign.

- **Tier-1 Automotive Supplier Prevails in Arbitration Proceeding Over Right to Outsource Work**

  We represented a Tier-1 automotive supplier in an arbitration proceeding that upheld the employer's ability to outsource work, which is vital to automotive industry clients as they seek to address economic pressures.

CONSTRUCTION INDUSTRY

- **Construction Supplier Obtains Summary Judgment in an FMLA Lawsuit Alleging Discrimination and Retaliation**

  We obtained summary judgment on behalf of one of North America's largest construction suppliers in a federal court case in which the employee alleged discrimination and retaliation under the Family and Medical Leave Act.

HEALTH CARE INDUSTRY

- **Health Care System Wins Summary Judgment Against Former Employee Who Alleged FMLA Violations**

  We represented one of Michigan's largest health care systems in a federal lawsuit by a former employee who claimed that her discharge violated the Family Medical Leave Act. We argued that the former employee's contemporaneous employment in a similar job demonstrated that she was not eligible for FMLA protection. The court agreed and granted our motion for summary judgment.

- **Regional Medical Center Obtains a Long-Term Replacement Labor Contract Covering Hundreds of Nurses and Helped Employer Prepare for Healthcare Reform Act Implementation**

  Bodman represented a regional medical center in bargaining a replacement labor contract covering hundreds of nurses. Using our unique eight-step bargaining plan, we helped the employer terminate early a more expensive contract and negotiate, in its place, without disruption, a long term contract that achieved major cost savings and helped the employer prepare for implementation of the Healthcare Reform Act.

- **India-Based Pharmaceutical Company Obtains Dismissal of Employment Claims Alleging Disparate Treatment**

  We represented an India-based pharmaceutical manufacturer in two employment lawsuits alleging discrimination through disparate treatment in favor of Indian employees. On behalf of our client, which had been a target of similar claims over a period of years, we obtained dismissal of the lawsuit by summary disposition without the necessity of a trial.

- **Community Hospital Survives Nurses' Strike and Ultimately Ends with Decertification of Union**

  We represented a community hospital after the Teamsters Union narrowly won the right to represent the hospital's nurses and called a strike when it did not achieve its goals in initial bargaining. With our guidance, the hospital continued to deliver quality care with replacement nurses and successfully battled the union's "hassle" campaign. The union was ultimately decertified.

EMPLOYMENT LITIGATION

- **National Restaurant Chain Prevails on Appeal that its Pre-Employment Arbitration Agreement was Unenforceable**

  A national restaurant chain relied on us to appeal a lower court ruling that the employer's pre-employment arbitration agreement was unenforceable. We obtained reversal of the lower court ruling.

- **Financial Institution Obtains Dismissal of Pregnancy Discrimination Claim**

  A large financial institution turned to Bodman when a long-term employee sued, claiming discrimination after being discharged soon after announcing her pregnancy. We achieved

dismissal of the claim, demonstrating that the employee was actually discharged for violating the employer's code of ethics.

- **Global Accounting Firm Prevails Before EEOC After Job Applicants Claim Age and Race Discrimination**

  We represented a global accounting firm before the EEOC, obtaining dismissal of claims by former job applicants of age and race discrimination when we demonstrated that the applicants had been denied employment for legitimate business reasons.

LABOR-MANAGEMENT RELATIONS

- **Global Service Company Defeats Union Organizing Campaign at Its Location**

  We also helped a global service company defeat a Canadian union organizing drive at a center employing over 1,000 workers.

- **Public Utility Successfully Defends Labor Contract Challenge to Its Right to Assign After-Hours Call Out Duty**

  We assisted one of Michigan's largest public utilities in defending a labor contract arbitration in which the IBEW challenged the employer's right to assign certain workers to after-hours call out duty later than their normal starting times. The arbitrator adopted all of the arguments Bodman advanced, ruled in favor of the employer, and ruled that the union should pay the arbitrator's fees and expenses.

- **Lime Producer Prevails in Labor Contract Arbitration Alleging Wrongful Discharge of Long-Time Employee**

  We represented a global producer of lime and lime products in a labor contract wrongful discharge arbitration, persuading the arbitrator to uphold the discharge of the long-service employee for falsifying a medical slip to justify an extended absence.

NON-COMPETE AND TRADE SECRETS

- **Employer Obtains Court Order to Enforce Terms of Non-Compete and Non-Solicitation Agreements of Former Executive Employee**

  Following the resignation of our client's regional vice president, it came to light that his activities, pre- and post-resignation, violated a non-competition and non-solicitation agreement he signed as a condition of employment. We quickly obtained a court order enforcing the terms of the employment agreement and reached a settlement with the former vice president which included a "no touch" client list, a provision for payment of royalties to our client, and ongoing monitoring of his activities.

- **Non-profit Organization Faces Six Various EEOC Charges in One Year; All Dismissed or Resolved Favorably**

  Over a one-year period, we represented a large nonprofit in connection with six Equal Employment Opportunity Commission charges alleging sexual harassment and age, race, disability, and national origin discrimination. We achieved dismissal of four of the charges and successfully resolved the other two on favorable terms.