

## Labor & Employment

### Comprehensive Counsel in All Aspects of the Employment Relationship

Brooks Pierce has one of the most well-established labor and employment practices in North Carolina, having represented employers throughout North Carolina and the Southeast for nearly 100 years. Our team is comprised of litigators who have advocated for our clients before state and federal courts, but we also offer practical, real-world advice on all aspects of employment law to help you avoid the courtroom.

Our labor and employment practice increased its prominence throughout North Carolina and nationally during the COVID-19 pandemic, becoming a leading voice in guiding employers through the complications brought on by the global crisis.

As the rules that define the employment relationship continue to evolve, our attorneys are more than up to the challenge. With a renowned team of 18 attorneys, we work to help organizations of all sizes understand the legal pitfalls that may come from running a business or company.

#### Litigation

**Advocates for Businesses.** We have experience litigating claims before federal and state courts, appellate courts and government agencies, such as the Equal Employment Opportunity Commission (EEOC), the Department of Labor, OSHA and the National Labor Relations Board. Our attorneys have defended employers against hundreds of whistle-blower, discrimination, wage and hour, and common-law employment claims. We also have regular experience seeking TROs and injunctions to protecting trade secrets and enforce covenants not to compete.

Our representative experience in litigation includes:

- Representing a manufacturer in state court where a former sales director asserted claims for allegedly unpaid commissions. The case raises novel issues of the interpretation of the North Carolina Wage and Hour Act.
- Representing a manufacturer in both North Carolina and federal courts and before the Department of Labor and EEOC on employment discrimination lawsuits.
- Defending a county board of education in a lawsuit in which a teacher alleged she was passed over for an administrative position solely because of her race, in violation of Title VII.
- Representing an insurance marketing organization in multiple lawsuits involving covenants not to compete, winning a favorable result for our client.
- Representing a transit authority in multiple connected cases involving the National Labor Relations Board and the EEOC, resolving all issues favorably for our client.
- Representing a local hospital in federal court in defense of ADA Title III, Section 504 and Affordable Care Act claims.

- Representing an employer in a Department of Justice investigation on hiring practices.
- Representing the head of a large statewide employer in a purported class-action suit alleging violations of antitrust law based on alleged “no poaching” agreement with competitor.
- Obtaining a \$75 Million jury verdict for a chemical company client in unfair trade practice, breach of contract and fraudulent transfer claims.
- Obtaining summary judgment in favor of a hospitality client for a Title VII claim brought by former employee alleging retaliatory discharge. The summary judgment was affirmed by the 4th Circuit Court of Appeals.
- Obtaining summary judgment in favor of a hospitality client for an Americans with Disabilities Act claim brought by a former employee. Summary judgment was affirmed by the 4th Circuit Court of Appeals.
- Obtaining a \$1 million consent judgment in favor of a construction industry client against former employees for misappropriation of trade secrets, fraud, conversion and breach of fiduciary duty.
- Obtaining dismissal of federal OSHA whistleblower claim filed by former employee against manufacturing client.

### Counsel

**Excellence in Employee Relations.** Our labor and employment attorneys provide counsel on all aspects of employment law including discrimination and retaliation claims, wage and hour compliance, employment policies and handbooks, and hiring and terminations.

Our representative experience includes:

- Counseling a company on ongoing and wide-ranging labor, employment and benefits matters after an international merger including benefits changes, employee hiring, discipline and termination issues, and reductions in force.
- Counseling a restaurant franchise owner on various union avoidance strategies, as well as advising on other labor matters including racial discrimination and sexual harassment claims.
- Counseling an international organization on implementation of a reduction in force, as well as enactment of voluntary and involuntary severance plans.
- Designing and delivering internal investigations policies and training for a public company’s HR team for use globally.
- Investigating internal complaints of discrimination and harassment and advising employers.
- Reviews of hiring, compensation and disciplinary practices.
- Successfully counseling clients through internal claims, including claims asserted by officers, human resources managers and directors.
- Representing clients on employment matters that arise in mergers and acquisitions.

- Advising employers on navigating the workplace climate when employees "come out" as transgender or gay.

### Drafting

**A Multi-Faceted Perspective.** Our experience litigating over a variety of employment contracts and benefit plans makes us keenly aware of drafting priorities that promote enforceability. Coupled with the varied background of our labor and employment attorneys, our team has the ability to draft documents that anticipate issues from a range of perspectives.

Our representative experience includes:

- Preparing employment and non-competition agreements.
- Preparing executive compensation agreements.
- Preparing severance agreements.
- Assisting employers in communications to employees associated with reductions in force, layoffs and mergers/acquisitions.
- Drafting sales incentive compensation plans compliant with wage & hour and deferred compensation laws.
- Drafting non-disclosure and confidentiality agreements.
- Preparing employee handbooks and related employment policies.

### Benefit Planning

**The Complex Clarified.** Our employment attorneys have broad experience advising business owners with respect to employee benefits and executive compensation matters, including qualified retirement plans, health and welfare plans, and deferred compensation plans. We know how to navigate the complex web of statutes and regulations under the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code that govern these plans and practices.

Our representative experience includes:

- Assisting employers with the design and implementation of a voluntary window severance program.
- Assisting with the development and qualification of a multiple employer welfare arrangement (MEWA).
- Assisting employers in ERISA compliance under the Department of Labor's Delinquent Filer Voluntary Compliance Program.
- Assisting employers in remedying non-compliant 401(k) plans.
- Assisting employers in reviewing current health and welfare plans and best practices for documenting those plans for ERISA compliance purposes.

Contact the Brooks Pierce Labor & Employment Team for innovative solutions to your company's employment law needs.

## **SIGN UP TO RECEIVE ALERTS**

### **PEOPLE**

James C. Adams II

William P.H. Cary

Patricia Goodson

Noah Hock

Robert King III

D. Beth Langley

Brian McMillan

Claire O'Brien

D.J. O'Brien III

John W. Ormand III

Sarah M. Saint

Natalie K. Sanders

Bryan Starrett

Jessica Thaller-Moran

Walter L. Tippet, Jr.

Elizabeth L. Troutman

Melissa H. Weaver

Howard L. Williams

### **AREAS OF CONCENTRATION**

Compliance & Internal Investigations

Employee Benefits  
Employment Litigation  
Union & Labor Issues

## NEWSROOM

### News

72 Brooks Pierce Attorneys Recognized in *The Best Lawyers in America*® 2022 Guide  
*The Best Lawyers in America*®, 08.19.2021

Natalie Sanders Quoted in *USA Today* on Unvaccinated Employees Qualifying for Unemployment Benefits  
*USA Today*, 08.12.2021

Brooks Pierce Welcomes Former Partner Back to the Firm  
07.29.2021

Jessi Thaller-Moran Named Council Member of North Carolina Bar Association Labor & Employment Law  
Section  
07.12.2021

Brooks Pierce Practice Areas, Attorneys Receive Top Honors from Chambers USA  
*Chambers USA*, 05.20.2021

### Events

Brooks Pierce Attorneys Present Webinar on Utilizing Temporary Staffing Agencies  
09.09.2021

Brooks Pierce Hosts Webinar on Hiring Employees Across State Lines  
08.26.2021

Brooks Pierce Attorneys Present Webinar on OSHA's New Healthcare Emergency Temporary Standard  
07.29.2021

Brooks Pierce Hosts Webinar on Navigating Varying Ideologies in the Workplace  
06.16.2021

Brooks Pierce Attorney Participates on NC TECH Panel  
06.09.2021

### Publications

President Biden's "Path out of the Pandemic" Imposes New Vaccination Requirements

*COVID-19 Response Resource Center: Timely Counsel for your Business, 09.10.2021*

North Carolina Municipalities Pass Anti-Discrimination Ordinances  
09.08.2021

Updated CDC Masking Guidance; North Carolina Employers Strongly Encouraged to Implement COVID-19  
Vaccination, Testing, and Mask Policies

*COVID-19 Response Resource Center: Timely Counsel for your Business, 07.29.2021*

EEOC's New Guidance Regarding Sexual Orientation and Gender Identity Workplace Discrimination  
06.18.2021

Brooks Pierce Capital Dispatch: Updates from the NC General Assembly and Governor's Office, June 18,  
2021  
06.18.2021