

## Labor and Preventive Practices

The world, the law and the labor landscape have changed in the past few years – it is important for every employer to consider new preventive labor relations approaches and best practices that take these changes into account.

### Overview

Jackson Lewis is a law firm that offers legal advice to employers through the many laws that impact on every aspect of an employer's decision and ability to develop and implement a strategic, comprehensive preventive labor relations program. We provide labor advice to all employers – whether entirely unionized, entirely union-free or partially unionized – in every industry.

While the National Labor Relations Act has always applied to employees regardless of union representation, the Board's decisions and initiatives in the past few years have broadened the law's reach significantly. Our advice reflects our experience and insights into these changes.

Our labor attorneys have represented private and public sector clients in thousands of matters before arbitrators, mediators, the National Labor Relations Board, the Department of Labor, state labor boards, other government agencies, and state and federal courts. On a daily basis, we offer legal advice and counsel to employers regarding corporate campaigns, card check and neutrality agreements, union organizing, protected concerted activity, NLRB elections, contract negotiations, grievance and arbitration proceedings, unfair labor practices, international labor issues, recent and upcoming NLRB decisions, new agency and legislative initiatives, federal contractor requirements, traditional and third party economic activity pressures (such as picketing, bannering or hand billing), internet-based public appeals (such as through websites, blogs and social media), work stoppages and

walkouts, LMRDA compliance, injunction proceedings, purchase/sales, reductions and reorganizations, cross-practice issues (coordinated with immigration, workplace safety, sports, wage and hour, privacy and other workplace practices), as well as the entire range of pre- and post-hire employee relations issues. Our firm has been retained to offer legal advice to many employers who have succeeded in winning NLRB elections or in averting union elections altogether. We also have represented unionized employers in negotiations ranging from “bet the farm” situations to simple contract renewals.

## Overall Services Provided to Both Union-Free and Unionized Employers

For all employers, we:

- Provide legal advice to company Boards of Directors and executive teams as they develop their strategic, comprehensive preventive labor relations programs that are legal and appropriate in today’s changing workplace;
- Conduct management legal/human resources preventive labor relations assessments that analyze the legal implications of an employer’s labor and employee relations policies and practices, and make legal recommendations for employer best practices;
- Advise on the development of employee handbooks, supervisory and policy manuals, social media policies, class action waivers, confidentiality agreements, internal investigations, alternative dispute resolution and other problem solving procedures, employee orientation programs, communications and government relations programs so that all such documents, policies and processes are state of the art and comply with all legal requirements;
- Design and conduct Board/executive/management/supervisory educational programs which provide legal advice to guide employers through their particular issues and ensure compliance with the law;
- Provide legal advice including on-site management counseling during corporate campaigns, union organizing, negotiations, picketing and other related activities; and
- Conduct ongoing legal training for managers and supervisors where advice is offered relating to either (1) union organizing (for union-free employers) or (2) contract administration or negotiations-related matters (for unionized employers).

## Additional Services Provided to Union-Free Employers

We advise employers before and during union organizing on a daily basis, including but not limited to providing services such as:

- Overall strategic legal advice;

- Board/executive/management/supervisor training relating to union organizing and/or corporate campaigns;
- Legal/HR assessments to advise regarding lawful, effective best practices;
- Recommendations regarding lawful employer communications;
- Bargaining unit advice; and
- Other legal recommendations for employer consideration.

We wrote the book “Winning NLRB Elections,” which is nationally renowned, and are regularly retained to advise and represent companies during NLRB “R” cases. Our representation of employers in thousands of NLRB representation cases and unit clarification proceedings has run the full gamut, including stipulations, significant contested hearings (including new “micro-unit” and joint employer cases), post-election objections and appeals. We have developed specialized corporate campaign preventive advice and strategy/action plan recommendations for our clients’ consideration so that organizations can remain employers of choice.

## Additional Services Provided to Partially- or Fully-Unionized Employers

For unionized employers, we:

- Provide legal representation during collective bargaining negotiations either “at the bargaining table” or “behind the scenes” as legal counselors and advisors, including:
  - analyzing contracts, grievance history and arbitration awards to legally advise and recommend strategies for contract negotiations and long-term labor relations management based on changes in the law, bargaining trends and our client’s needs;
  - meeting with and advising management about legally appropriate strategies to achieve the client’s collective bargaining goals;
  - developing strategies and approaches for thorny issues such as withdrawal liability and health care reform;
  - advising clients regarding lawful communications with employees, the press, public officials and others about negotiations;
  - advising and/or representing employers if federal, state or city mediators become involved in the bargaining process; and
  - advising clients about contingency plans to meet the legal challenges for continued operations in the event of a work stoppage, strike or other cessation of work.
- Provide representation during the term of a collective bargaining agreement, including:
  - representing clients during grievance and arbitration proceedings;
  - educating front-line management where legal advice is offered to properly

- and effectively administer the collective bargaining agreement;
- communicating with union officials (or advising our clients to do so) about unanticipated or critical issues that arise during the term of the contract; and
- advising clients regarding the legal strategy surrounding mid-term modifications to the collective bargaining agreement.
- Represent clients in deauthorization, decertification and unit clarification proceedings before the NLRB.

## Additional Services Provided to Clients During Purchase/Sale and Other Transactions

We have significant experience providing labor, employment and benefits advice in the context of mergers, acquisitions, asset purchases, management agreements, corporate restructurings and other transactions. Our attorneys frequently advise and work closely with a client's internal and regular outside corporate counsel in these areas.

Examples of the specific services we provide to buyers, sellers and investors include advice and counseling with respect to:

- Strategic planning for the transaction;
- Statutory compliance with Federal, state and local laws (WARN statutes, dislocated worker statutes, successorship and withdrawal liability issues, ADEA, ERISA, COBRA, NLRA, etc.);
- The due diligence process;
- Executive compensation, employment agreements and restrictive covenants;
- Disposition of employee benefit and compensation arrangements, including advice and negotiation of arrangements in the collective bargaining context, advice on multiemployer pension and welfare benefit plan issues, development of successor benefit arrangements, and other post-transaction benefits matters;
- Negotiation and drafting of the terms of transaction documents;
- Development of post-transaction labor strategies;
- Negotiation of successor collective bargaining agreements; and
- Integration of business units after the closing of a transaction.

## Practice Leads



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"Their detailed expertise has absolutely made a difference in how we defend our organization."

Mr. Michael Burkhart  
Director of Human Resources  
**Watermark Retirement  
Communities**

Download the Labor and  
Preventive Practices Practice  
Group Brochure

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# Upcoming Events

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\*The National Operations Center serves as the firm's central administration hub and houses the firm's Facilities, Finance, Human Resources and Technology departments.