



David J. Kolesar

Of Counsel

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OVERVIEW

Mr. Kolesar represents and counsels employers in a wide variety of labor and employment law matters. Mr. Kolesar defends employers in litigation, including class action litigation, relating to employment discrimination, wage and hour issues, wrongful termination, harassment, and family and medical leave issues. He also counsels employers on workplace policies, compliance, and personnel decisions. Mr. Kolesar represents employers in a wide variety of industries, including the steel industry and the healthcare industry, from large hospital systems to small healthcare practices to community based human services organizations supporting persons with developmental and behavioral disabilities. Mr. Kolesar represents employers of all sizes, from large international manufacturing corporations to small businesses with few employees.

Mr. Kolesar is an experienced litigator in trials and appeals. He has served as lead counsel in the successful defense of class and collective actions under the FLSA, ERISA, the LMRA, and state wage and hour laws. He has successfully defended class and collective actions challenging the modification and termination of retiree medical benefits, the termination of medical benefits of unionized employees during a lockout, and the proper classification and payment of inside sales representatives. Mr. Kolesar defends employers in actions ranging from single plaintiff discrimination claims to class and collective actions challenging company wide and nationwide policies and practices. His experience includes defending employers in litigation under the Civil Rights Acts of 1866, 1964, and 1991, the Age Discrimination in Employment Act, the Americans with Disabilities Act, and Family and Medical Leave Act; minimum wage and overtime litigation under the FLSA and state wage and hour laws; benefits litigation under ERISA; grievance arbitrations; administrative proceedings before the EEOC, the Pennsylvania Human Relations Commission, and other state agencies; and unemployment compensation hearings.

Mr. Kolesar regularly counsels employers on all aspects of employment law, including workplace policies, compliance, and everyday personnel decisions. He assists employers in developing personnel policies, employee handbooks, and training programs. He drafts employment agreements, non competition and confidentiality agreements, and severance agreements. Mr. Kolesar also conducts workplace investigations of employee complaints.

PROFESSIONAL BACKGROUND

Mr. Kolesar has spoken at seminars on a variety of labor and employment law topics., has contributed to employment-related newsletters, and has had an employment-related note published in the *Michigan Law Review*.

PROFESSIONAL / CIVIC ACTIVITIES

- Allegheny County Bar Association

EDUCATION

- B.A., Cornell University, (*With Distinction In All Subjects; Phi Beta Kappa*)
- J.D., University of Michigan Law School, (*cum laude; Associate Editor, Michigan Law Review*)

ADMISSIONS

- Bar of Pennsylvania
- United States Court of Appeals for the Third Circuit
- United States District Court for the Western District of Pennsylvania

OTHER PUBLICATIONS

- Mandatory Arbitration Programs, *HR Fact Finder* (reprinted from January K&L Gates alert), May 2002
- The Impact of Employment Laws on Workplace Security, *Pittsburgh Society of Association Executives*, April 2002
- Implications of the Toyota Decision, *HR Fact Finder*, April 2002
- Impact of Employment Laws on Efforts to Maintain a Safe Working Environment (Part 2), *The Corporate Counselor*, January 2002
- Security Checks on Employees - Part I & 2, *HR Fact Finder*, December 2001 & January 2002
- Workers Compensation, FMLA and ADA Laws, prepared for *ADP Institute for Educational Excellence Seminar*, 13 December 2001
- Impact of Employment Laws on Efforts to Maintain a Safe Working Environment (Part 1), *The Corporate Counselor*, December 2001

AREAS OF FOCUS

- Labor, Employment, and Workplace Safety

- Collective Labor and Works Councils
- Employment Disputes and Investigations
- Employment Issues in Business Transactions
- Human Resource Advice and Compliance
- Wage and Hour
- Workplace Safety

REPRESENTATIVE EXPERIENCE

- Successfully defended hospital system by obtaining Rule 12 dismissal as a matter of law of disability discrimination claims under the ADA by former nurse, concerning mandatory vaccination policies.
- Successfully defended hospital system against religious discrimination claims under Title VII by nurse, concerning mandatory vaccination policies.
- In a case of first impression, successfully defended specialty steel manufacturer by obtaining Rule 12 dismissal as a matter of law of nationwide class and collective action claims under the FLSA and Oregon Minimum Wage Statute by temporary workers employed during lockout.
- Successfully defended specialty steel manufacturer by obtaining Rule 12 dismissal as a matter of law of nationwide class and collective actions claims under ERISA and the LMRA by retired union members, concerning modification of retiree medical benefits.
- Successfully defended electronics distributor in putative nationwide class and collective action under the FLSA and state wage and hour laws concerning the proper classification and payment of inside sales representatives by defeating two certification motions and subsequently obtaining a summary judgment dismissal following limited discovery.
- Successfully defended specialty steel manufacturer by obtaining Rule 12 dismissal as a matter of law of ERISA, LMRA, and breach of contract claims by Union, concerning termination of medical benefits during lockout.
- Successfully defended employer against claims of age discrimination, disability discrimination, race discrimination, and sex discrimination under the ADEA, the ADA, and Title VII by obtaining summary judgment dismissal.
- Successfully defended employer against claims of disability discrimination, sex discrimination, and retaliation under the ADA and Title VII by obtaining summary judgment dismissal.
- Successfully defended employer against claims under the ADEA and ERISA by obtaining summary judgment dismissal, where claims involved termination of long-term employee.
- Obtained jury verdict in favor of employer following trial in case involving claims of age discrimination under the ADA and state law brought by older employee terminated in reduction in force.

- Successfully defended employer against claims of race discrimination and racial harassment (hostile work environment) under Title VII by obtaining summary judgment dismissal, where claims involved allegations of finding nooses and other objectionable materials in the workplace.
- Successfully defended employer against disability discrimination and retaliation claims under the ADA.