

## Wong Fleming Represents Management in a Comprehensive Nationwide Employment Practice

Wong Fleming represents management in a comprehensive nationwide employment practice, in federal and state courts, and before state human rights agencies, the EEOC, FINRA, and wage and hour and unemployment agencies. We have successfully resolved actions on behalf of Fortune 500 companies, litigating claims based upon race, national origin, disability, age and sex discrimination, military leave, family and medical leave, breach of contract, covenants not to compete, whistleblower statutes, wage and hour statutes, the NLRA and ERISA.

Wong Fleming assists corporations in sexual harassment and diversity training, establishing discrimination policies and employment handbooks and drafting and negotiating non-compete and severance agreements. Our firm has conducted sexual harassment training for trainers of the judiciary. All Wong Fleming attorneys are likewise extremely knowledgeable about labor matters. Our firm's lawyers are skilled and experienced to help our clients resolve labor disputes, maintain non-union status, negotiate collective bargaining agreements, and defend against related litigation.

### Key Service Areas

- Compliance Audits
- Employment Counseling
- Employment Litigation
- Executive Compensation
- Internal Investigations
- Restrictive Covenants
- Workplace Safety

### Representative Matters

- Represented Fortune 100 oil company in action filed in the District of New Jersey, and federal and state agencies, by a store manager, alleging that he was subject to discrimination on the basis of his national origin and disability, and retaliation, for objecting to discrimination. This action was vigorously defended with motions to dismiss, based upon the failure of the plaintiff to exhaust administrative remedies and properly appeal a Director's order to the Appellate Division. The action was partially dismissed and the case was resolved informally.
- Represented Fortune 100 oil company in state litigation filed by a former Courtesy Technician who alleged that she was subjected to sexual harassment but was terminated for directing profanity toward her supervisor. This action involved multiple defendants and extensive discovery.
- Represented Fortune 100 oil company in agency investigations conducted by the EEOC and state human rights agencies, in individual and systemic charges of discrimination and retaliation.
- Represented Fortune 100 oil company in federal action involving employee who claimed she was not reinstated to her position based upon her veteran's status.

- Represented a national retailer and other Defendants in an action alleging that the plaintiff was subjected to discrimination based upon her race, color, national origin and temporary disability in violation of Title VII of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990, and retaliated against for taking medical leave. Plaintiff also alleged breach of contract, racketeering, “violation of life event,” and the improper termination of health benefits arising out of her employment. We filed a motion to compel arbitration of Plaintiff’s employment related claims pursuant to the employer’s dispute resolution program and dismiss or stay proceedings. Defendants’ motion to compel arbitration was granted and all claims were stayed pending the completion of the arbitration except Plaintiff’s COBRA claim.
- Represented a private, Ivy League research university, in an action in which the plaintiff alleged that he was subjected to discrimination based on his race in violation of Title VII of the Civil Rights Act of 1964, when he was terminated from his employment. We filed a Motion to Dismiss Plaintiff’s Complaint for failure to state claims upon which relief may be granted pursuant to Fed. R. Civ. P. 12(b)(6), because Plaintiff had failed to exhaust his administrative remedies. Specifically, there was nothing in the EEOC charge filed by the plaintiff that would have put the EEOC, or the University, on notice that Plaintiff was claiming race discrimination with regard to his employment. Plaintiff had only checked the “Disability” box on the EEOC charge and narrowly limited his allegations to disability based discrimination under the ADA. Our motion to dismiss was granted and the case was dismissed.
- Represented a commuter railroad company and a manager in litigation asserting claims for 1983 First Amendment and Equal Protection civil rights violations and claims of age and disability discrimination under the Americans with Disabilities Act. The action was brought by a database administrator and required extensive analysis of the information technology systems of the company in running the transportation system of the metropolitan area, job requirements of a highly technical employee, expert reports on damages, thousand of documents produced in discovery or retained because of privileges and multiple depositions. A motion for summary judgment involving extensive briefing and the submission of multiple affirmations and over several hundred exhibits was filed and the court ruled in our client’s favor and granted Summary Judgment on all counts.
- Represented Fortune 100 pharmaceutical company in an age and retaliation claim filed in the Eastern District of Pennsylvania, involving a physician manager who was terminated based upon his failure to promote pharmaceutical products within company guidelines. The case was resolved informally prior to engaging in extensive depositions.
- Represented Fortune 100 pharmaceutical company in national origin, disability, retaliation and whistleblower action in the Northern District of Illinois filed by a sales representative. This case involved numerous depositions and motion practice and was defended on the bases that the plaintiff did not suffer any adverse employment action and there was no merit to the claims that his product mix was changed or that he received a lowered performance rating for any discriminatory reason. This case was resolved informally.
- Represented Fortune 100 pharmaceutical company in a workers compensation retaliation claim, in the Superior Court of New Jersey, that was defended based upon the failure of the plaintiff to demonstrate that there were any hiring personnel who were aware the plaintiff was on workers compensation and

that she was unqualified or the least qualified for the positions she sought after her leave of absence expired. This case was resolved informally after extensive discovery and motion practice.

- Routinely handle EEO investigations of charges brought before the EEOC and/or relevant state agencies, which encompasses investigations, drafting of position statements, mediations, fact-finding conferences, and administrative hearings, including in such jurisdictions as Ohio, California, New Jersey, Massachusetts, and New York, which historically have the more aggressive EEOC and/or state agencies. We also routinely help clients be proactive and assist with trainings and/or developing policy changes to minimize future employment challenges.
- Routinely handle responses to demand letters where it is imperative to temper the urge to litigate with the need to negotiate to ensure that each approach best fits the clients' goals.
- Obtained a defense verdict for a financial institution in a suit by a former employee alleging race discrimination.
- Obtained voluntary dismissal of race claim through aggressive discovery and savvy motion practices.
- Represented a private, Ivy League research university, in an action filed by an independent contractor who alleged that he was subjected to sexual harassment. During the discovery in this action, it was revealed that the plaintiff was suffering from psychosis and other serious mental health issues. This action was resolved informally.
- Represented a private, Ivy League research university, in a reverse discrimination action in which the plaintiff alleged that she was terminated from her position as a nurse on the basis of her race. This action was resolved informally.
- Represents national retail department store in numerous actions involving age, disability, and sex discrimination and retaliation actions involving sales personnel who were terminated and were also subject to mandatory arbitration based upon opt-out policies of the company.
- Represents national retail department store and financial institutions in Title III actions involving claims that their retail operations were not accessible for persons with disabilities.
- Represented a national financial institution in a race/national origin discrimination matter, and obtained an early dismissal through aggressive discovery.
- Obtained dismissal of disability discrimination and retaliation action.
- Represented a Fortune 500 insurance company in a race and national origin retaliation and discrimination action. After launching an aggressive defense, the Plaintiff voluntarily dismissed the corporate executives, and, thereafter, dismissed the entire action on the eve of her deposition.
- Obtained dismissal of corporate executives named in race, national origin and retaliation claims. Remainder or claims resolved prior to Depositions with a favorable settlement.
- Represented the world's largest management consulting and outsourcing firm in alleged violations of the NJLAD and ADA matters. Plaintiff claimed that he was terminated because of his disability, and that the company breached his contract by failing to provide him with an equity grant, his PTO time and a severance package. Wong Fleming obtained a dismissal of the severance and PTO claims, and partial summary judgment on good faith and unjust enrichment claims.

- Obtained dismissal of 10 counts of a 14-count Complaint in disability discrimination action. Favorably resolved remainder of action.
- Represented a Fortune 500 insurance company in a high-exposure disability discrimination matter. Secured favorable settlement.
- Defended a corporation and individual in restrictive covenants litigation (customer non-solicitation, employee non-solicitation); obtained highly favorable settlement with payment of *de minimis* amount through aggressive discovery and creative negotiations.
- Represented a national retailer in a class action investigation involving the handling of criminal background checks, and other actions involving criminal background checks, allegations of race discrimination and whistleblower retaliation.
- Represented management in numerous grievance proceedings involving interpretation of collective bargaining agreement with regard to disciplines, terminations and other work issues.
- Represented parties in traditional labor law matters before the National Labor Relations Board, the New Jersey Public Employment Relations Commission, the Department of Labor, the Office of Administrative Law, and State and Federal Courts.
- Successfully handled over seventy-five discipline and contract interpretation grievance arbitrations.
- Negotiated collective bargaining agreements and handled unfair labor practice matters, ERISA litigation and delinquency disputes.
- Conducted sexual harassment training of over 2500 employees for single employer.
- Serve as human resources outpost to proactively avoid disputes, conduct audits, and resolve lawsuits.
- Routinely handle wage and hour audits for corporations of all sizes and involving all relevant issues.
- Secured an early, favorable settlement for an international financial institution in wage and hour litigation.
- Represented hospitality business in collective action concerning overtime, minimum wage, hour calculations, and misclassification claims; successfully obtained reduction of total class size to ten percent of the total employees initially sought through aggressive pleadings and threat of motions based on inability to comply with class action law requirement that class representatives be able to demonstrate damages on a class-wide basis for a wide range of claims.
- Defended a spa services company in wage and hour action concerning managerial and sales employee alleging overtime and sales commissions underpayment; obtained highly favorable settlement shortly before trial by employing aggressive motion tactics based on trial stipulations.
- Defended high-profile educational institution in case involving multiple employment issues, including wage and hour violations for misclassification and unpaid overtime; obtained highly favorable settlement with payment of *de minimis* amount through aggressive discovery.

- Defended technology corporation in wage and hour proposed collective action for misclassification; obtained highly favorable settlement with payment of *de minimis* amount through aggressive discovery tactics.
- Represented regional restaurant in wage and hour action for misclassification, unpaid overtime and rest break issues, and secured a favorable settlement.
- Represented funeral services corporation in collective action under federal and state laws for unpaid overtime and improper recordkeeping; obtained a favorable resolution.
- Defended grocery store in wage and hour collective action against labor union backed Plaintiffs alleging minimum wage, overtime, and rest break claims; successfully obtained withdrawal of class action claims through aggressive use of affirmative defenses and counterclaims.
- Defended spa services company in wage and hour collective action and negotiated a favorable settlement.
- Defended comedy club in wage and hour action for misclassification, unpaid overtime and rest break issues; obtained a favorable settlement.

## Employment & Labor Law Attorneys:

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