

## **LABOR AND EMPLOYMENT LITIGATION**

When a dispute cannot be resolved informally, Sheppard, Mullin, Richter & Hampton LLP is prepared to litigate to protect its clients' interests. Our Labor and Employment attorneys regularly appear before state and federal courts. From high stakes "bet your company" litigation to single plaintiff sexual harassment cases, to administrative hearings before the Labor Commissioner, our employment litigators have the experience and substantive expertise necessary to help clients win. Our Labor and Employment practice is proud to boast that the firm offers some of California's best trial lawyers representing clients in the myriad of disputes.

We are sensitive to the clients' desire to control litigation costs. Our Labor and Employment attorneys work closely with clients to implement realistic litigation budgets while still maintaining the high level of expertise and attention to the matter at hand. We staff our cases conservatively, and we offer extremely competitive billing rates.

As an alternative to costly court or jury trials, we consider Alternative Dispute Resolution ("ADR") strategies for every case and advise clients on those options. Where appropriate, we encourage clients to pursue arbitration, mediation, negotiation or other ADR strategies. Our Labor and Employment attorneys understand ADR and have substantial expertise effectively using all forms of ADR.

### **Wage and Hour Class Actions**

For many years, Sheppard Mullin has been a leader in defending employers against large, complex and potentially devastating wage and hour class action lawsuits. Our Labor and Employment attorneys have represented employers in literally scores of wage/hour class actions, including claims involving unpaid overtime, off-the-clock work, vacation pay, payroll deductions, commission disputes, waiting time penalties and alleged meal and rest period violations. These are extremely significant cases, and employers hit with these class actions often face multi-million dollar exposure.

Employers facing these claims have for years turned to Sheppard Mullin for our expertise not only in wage/hour law but for our general expertise in class action litigation strategy. Sheppard Mullin remains current on all changes to the wage and hour laws and keeps its clients apprised of new developments in this area. Our attorneys also represent clients before the California Division of Labor Standards Enforcement, the New York Division of Labor Standards and the federal Department of Labor. We have resolved claims on both an administrative level and in state and federal courts.

### **Sexual Harassment and Discrimination**

Federal and state anti-discrimination statutes prohibit employers from hiring, promoting or discharging employees based on race, color, ethnic origin, age, sex, sexual orientation, pregnancy, marital status, veteran status, medical condition (such as cancer), AIDS and perceived or actual mental or physical disabilities (Americans With Disabilities Act). Employers need to be concerned about complying with the myriad of often inconsistent laws. Federal and state agencies, as well as individual employees, may pursue claims against employers. As a result, there is often significant financial exposure.

Our attorneys have successfully handled these matters before the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, Office of Federal Contract Compliance Programs and other regulatory agencies. We have substantial experience in representing employers in lawsuits filed by these agencies, and we have successfully defended clients in individual and class action lawsuits and class actions brought under federal and state discrimination laws. Sheppard Mullin attorneys also provide regular advice and counsel on the latest developments in this area, as well as offer in-house training programs that help clients to identify sexual harassment, avoid it in the future and respond to complaints and allegations.

### **Wrongful Termination, Qui Tam False Claims and Whistle Blower Actions**

Employee lawsuits alleging "wrongful discharge" continue to be filed at a significant rate. "Whistle blower", *qui tam* retaliation and other public policy wrongful discharge claims are increasing. These lawsuits represent substantial financial exposure to employers, both in terms of verdict potential and the cost of defense. Recent California statistics show that jury verdicts in these cases over the past few years average over \$400,000. Sheppard Mullin's Labor and Employment attorneys have represented clients successfully in wrongful termination lawsuits throughout the country.

### **Employee Privacy and Defamation**

Federal and state laws guarantee the right to privacy to every employee. Every day, employers risk violating their employees' privacy rights by, for example, mishandling medical records or personnel files, discussing employee discipline, providing a letter of reference, monitoring employee internet/e-mail usage, announcing employee terminations and implementing drug testing or medial clearance procedures. Sheppard Mullin's Labor and Employment attorneys have defended employers on issues arising out of all types of defamation and invasion of privacy claims.

### **Stock Option Litigation**

Sheppard Mullin's Labor and Employment attorneys regularly represent executives and companies in stock option disputes. Our fluctuating economy has highlighted how companies utilize stock option plans, "phantom stock" agreements and other equity arrangements to compensate and keep their employees. Inevitably, disputes arise as to whether a terminated employee is entitled to accelerated vesting, whether a termination was implemented to avoid vesting, or whether a company's failure to grant options or vest shares is in violation of the provisions of the underlying agreements. These disputes almost always lie in the intersection among employment, contract, ERISA and technology law, and Sheppard Mullin lawyers have expertise in all these fields.

### **ERISA Litigation**

Sheppard Mullin represents employers and plan sponsors in employee benefits litigation. We have represented clients on ERISA related issues before a number of state and federal agencies. Sheppard Mullin also has a successful track record of litigating benefits cases at both the trial court and appellate levels. Our litigators have successfully resolved disputes ranging from claims of breach of fiduciary duty to executive compensation claims to retirement plan funding, as well as claims under RICO, the Americans With Disabilities Act ("ADA") and the Age Discrimination in Employment Act ("ADEA"), among others.

### **Unfair Competition and Trade Secrets**

Because workforce mobility is a reality in today's business climate, conserving proprietary information is critical to businesses seeking to remain competitive. With a focus on the fortification of our clients' proprietary secrets, Sheppard Mullin advises on matters involving both technical and business issues in both state and federal court.

We regularly assist clients to safeguard proprietary information and protect trade secrets and intellectual property rights. Our attorneys have obtained restraining orders and injunctions protecting our clients' rights and have successfully defended similar actions brought by our clients' adversaries. We have in-depth experience consulting on and litigating unfair competition and trade secret matters involving a vast array of topics, such as customer lists, product designs, formats, formulas and process, false advertising and confidentiality agreements, as well as fraud, unfair business practices and unfair competition, among others.

### **Public Works and Prevailing Wage Law**

Sheppard Mullin has decades of experience assisting clients in complying with prevailing wage requirements on public works construction projects. We have litigated numerous matters before the Secretary of Labor, Labor Standards Administration, California and New York Labor Commissioners and state and federal courts involving California and New York State Prevailing Wage Laws, the Davis-Bacon Act, the Contract Work Hours and Safety

Standards Act, the Fitzgerald Act and related laws and regulations. We also represent companies and organizations in administrative and judicial matters involving the determination of prevailing rates and the appropriate application of benefit payment.

**Appellate Practice**

Sheppard Mullin has represented clients in a vast array of labor related appellate matters. Our creative and forceful approach to advocating a client's rights, coupled with our deep and broad knowledge and "in the trenches" expertise in labor and employment law have consistently provided an edge in the appellate courts. Persuading judges at the highest levels, including the U.S. Supreme Court, is a true talent. Our attorneys are regularly retained to prepare and file amicus briefs, petitions and oppositions to petitions for certiorari and appeals following adverse court rulings.