

Ramon D. Bissmeyer

Member

San Antonio

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Areas Of Practice

Labor & Employment
Employment Litigation
Employment Counseling
ERISA Litigation
Non-Compete, Unfair Competition
and Trade Secrets
Litigation
Privacy and Data Security

Bar Admissions

Texas, 1993

Court Admissions

U.S. Court of Appeals, Fifth Circuit
U.S. District Court Northern,
Southern, Western and Eastern
Districts of Texas

Education

The University of Texas School of
Law, J.D., 1993
Southern Methodist University,
B.A., *cum laude*, 1990
Southern Methodist University,
B.B.A., 1990

Certifications

Board Certified in Labor and
Employment Law by the Texas
Board of Legal Specialization

Language

Spanish

Ray Bissmeyer is Board Certified in Labor and Employment Law by the Texas Board of Legal Specialization. He counsels clients in matters involving discrimination, harassment, retaliation, minimum wage and overtime under the Fair Labor Standards Act ("FLSA") and other laws and regulations governing the employer-employee relationship. He also represents clients before state and federal administrative agencies, such as the U.S. Department of Labor and the U.S. Equal Employment Opportunity Commission, and he defends employers in employment-related litigation in state and federal courts. Ray is the Labor & Employment Practice Group Leader as well as a member of the Firm's Professional Personnel Committee.

Experience

Ray advises clients regarding the full range of legal and business issues involved in the employment relationship, including the development of employment policies and procedures, preparation and enforcement of confidentiality, non-solicitation and non-competition provisions, best practices related to the protection of confidential information and key employees, employee discipline and termination, management training and investigation of employee misconduct.

Additionally, Ray has worked with clients to resolve employment-related claims through various forms of alternative dispute resolution by drafting mandatory grievance and arbitration procedures and representing employers in mediation and arbitration.

Ray often participates in corporate transactions by reviewing employment-related information disclosed through due diligence and reviewing or preparing employment agreements, covenants not to compete, non-solicitation agreements and non-disclosure agreements.

He is a frequent speaker and author on topics, issues and legislative developments related to labor and employment-related matters.

Ray's experience includes:

Non-compete, Non-solicitation and Non-disclosure Litigation

- **Technology provider.** Represented national business technology integration provider in claims by national competitor alleging tortious interference with non-competition, non-solicitation and non-disclosure agreement signed by competitor's former employee.

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- **Start-up company.** Represented multiple defendants, including a start-up company, in injunction proceedings involving alleged theft of proprietary information and tortious interference with non-competition agreement.
- **Hardware-software provider.** Represented national provider of computer hardware, software and related services in litigation against former employees and the competitor with whom the employees accepted employment for claims involving the possession and use of proprietary information and violation of a non-solicitation agreement.

Discrimination, Harassment and Retaliation Litigation

- **Social services agency.** Represented a nonprofit social services agency against claims of national origin discrimination and retaliation through judgment and federal court of appeals.
- Represented employer in federal court in Arkansas through judgment on claims of race and sex discrimination and retaliation.
- Represented employer against claims of discrimination by employee terminated after unauthorized release of employee data in response to phishing email allegedly sent by employer's executive requesting such data.
- Represented corporate and individual defendants in federal court in Austin, Texas through motion for summary judgment on claims of race discrimination, retaliation, "theft of personal data" and invasion of privacy.
- **Drilling services provider.** Represented publicly traded provider of land contract drilling services in arbitration of discrimination and retaliation claims by former employee.
- **Auto dealership.** Represented automobile dealership with respect to claims by former salesman alleging age discrimination, national origin discrimination and retaliation. After granting an award of attorneys' fees as a sanction for the former employee's failure to cooperate in discovery, the court later granted our client's motion for summary judgment as to all claims asserted.
- **Banking industry.** Represented a banking institution against a claim of age discrimination through judgment and federal court of appeals.
- **Law firm.** Represented a law firm against claims of age discrimination, sex discrimination, sexual harassment, retaliation and intentional infliction of emotional distress through judgment and state court of appeals.
- Represented a physician against claims of breach of contract, fraud, and intentional infliction of emotional distress, sexual harassment and retaliation through trial to state district court.
- **Food services company.** Represented a national food services company in several cases against claims ranging from workers' compensation retaliation to intentional infliction of emotional distress and defamation.

Class/Collective Action Litigation

- **Construction industry.** Represented company in collective action under the FLSA filed in U.S. court by several former employees. Following certification and limited discovery, Plaintiffs' claims were resolved, and the case was dismissed.
- **Cable installation company.** Represented company providing cable installation services for national telecommunications company in potential class and collective action filed in U.S. district court by several former independent contractors alleging that they should have been classified as employees and asserting claims under the FLSA, the Employee Retirement Income Security Act (ERISA), the Texas Deceptive Trade Practices Act (DTPA), as well as claims of unjust enrichment, negligent misrepresentation, promissory estoppel, fraud and fraudulent inducement. Plaintiffs' efforts to certify state-wide class and collective actions that could have included over 700 class members were defeated, and a plaintiff who had signed an agreement requiring arbitration was compelled to arbitrate all of his claims. Shortly thereafter, Plaintiff's claims were resolved with court approval, and the case was dismissed.
- **Commercial laundry.** Represented company in a FLSA collective action filed in U.S. District Court by former employee alleging unpaid overtime and seeking conditional certification of a class of current and former employees. Following pre-certification resolution with many potential class members, Plaintiff initiated settlement discussions that resulted in court-approved settlement.
- **Commercial laundry.** Represented company in a FLSA collective action filed in U.S. District Court by former employee alleging unpaid overtime and seeking conditional certification of a class of current and former employees. Following deposition of named Plaintiff and filing of Motion for Summary Judgment, case was dismissed following court-approved

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settlement.

- **Oilfield Services Company.** Represented company in a FLSA collective action filed in U.S. District Court by former employee alleging unpaid overtime as a result of an alleged failure to include per diem payments in calculation of regular rate. Following considerable briefing and several hearings related to communications with potential class members, a class of approximately 2,500 current and former employees was conditionally certified, less than 300 of whom ultimately opted in. Following limited discovery, the matter was resolved with court approval.
- **EMS Provider.** Represented company in a FLSA collective action filed in U.S. District Court by former employee alleging unpaid overtime and seeking conditional certification of a class of current and former employees. Following pre-certification resolution with many potential class members, only 2 individuals opted in, which resulted in Plaintiff-initiated settlement discussions and court-approved settlement.

Employment Counseling

- **Publicly traded company.** We represent this client in all employment matters throughout the various states in which it operates. Our representation has included general day-to-day counseling but also includes assisting in administrative charges, wage-and-hour investigations, and litigation.
- **Physicians and medical professionals.** We represent a team of more than 300 physicians and medical professionals in all employment matters. Our representation has included general day-to-day counseling but also includes assisting in administrative charges, wage-and-hour investigations, and litigation.
- **Electric cooperative.** This client provides electric service to nearly 65,000 members in thirteen Texas counties. We represent this client in employment-related matters, including employee counseling and termination, employee handbook review, administrative charges and litigation.
- **Manufacturing company.** Prepared work-related injury plans for union and non-union employees. Advised client in connection with plan administration, claim review and procedures, employee releases, ERISA preemption, and litigation matters. Advised client with respect to group health plan, cafeteria plan, COBRA, and HIPAA matters.
- **Social services provider.** This client currently operates a variety of state and federally-funded programs in eight states, including Migrant Seasonal Head Start, Child Care Services, Workforce, Texas Early Education Model (TEEM), Healthy Marriages Development, Safe Haven and Head Start / Early Head Start programs. We represent this client in employment-related matters, including employee counseling and termination, supervisor training, development and implementation of a dispute resolution policy, administrative charges, litigation and arbitration.

Employment-Related Tort and Breach of Contract Litigation

- Represented nationwide human resources consulting firm and one of its employees who were retained to investigate claims of misconduct by a manager at a third-party company. Based upon the results of that investigation, the company terminated the employment of the manager, who filed suit against her former employer, the HR consulting firm and the individual who conducted the investigation. All claims (of intentional infliction of emotional distress and false imprisonment) against our clients were dismissed by way of motion for summary judgment, and the court's order granting summary judgment was subsequently affirmed on appeal following oral argument.
- **Aviation company.** Represented an aviation company against claims of breach of contract and defamation through judgment and state court of appeals.
- **Publishing company.** Assisted in representation of a national publishing company against claims of breach of contract, fraud, intentional infliction of emotional distress, age discrimination and disability discrimination through judgment and federal court of appeals.
- **Credit union.** Represented a credit union against claims of fraudulent inducement, breach of contract, intentional infliction of emotional distress and defamation through arbitration.

Family and Medical Leave Act

- **Multi-state nonprofit organization.** Represented a multi-state nonprofit organization in the arbitration of interference, discrimination and retaliation claims under the Family and Medical Leave Act and pregnancy discrimination claims under Title VII. After compelling the dismissal of claimant's pregnancy discrimination claims, the organization prevailed on all FMLA claims through arbitration.

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- **Drilling services provider.** Represented publicly traded provider of land contract drilling services in arbitration of interference, discrimination and retaliation claims under the Family and Medical Leave Act (FMLA), wrongful termination in violation of the Surface Transportation Assistance Act (STAA), wrongful termination for refusing to commit an illegal act, wrongful termination in violation of the Sarbanes-Oxley Act of 2002, intentional infliction of emotional distress and defamation. All claims except FMLA claims were dismissed through motion for summary judgment, and client prevailed on FMLA claims through arbitration.

Labor Preemption Litigation

- Represented non-subscriber employer against personal injury claims by employee through removal to federal court and judgment based on preemption by § 301 of the Labor Management Relations Act.
- Represented a national trucking company against personal injury claims by drivers through removal to federal court, judgment and federal court of appeals by arguing that such claims were preempted by § 301 of the Labor Management Relations Act.

Seminars & Speeches

What's On Your Mind? Dykema's COVID-19 "Ask the Attorneys" Webinar for Employers
May 7, 2020

Avoiding the Adrenaline Rush: Managing Employment Risk, San Antonio Manufacturers Association (SAMA) 2020
Employment Law Seminar
February 27, 2020

Don't Look Here or Here: Workplace Privacy
August 23, 2019

Where Does it Stop: The Expanding World of Discrimination Claims
February 15, 2019

The Business Perspective, Workplace Experiences, Panelist, San Antonio Chamber of Commerce Project Ability Summit
September 28, 2018

Blockin' & Tacklin': Discussing the Fundamentals to Complex Employment Issues
August 3, 2018

#MeToo #TimesUp #AllRaise #MentorHer – Legal Implications for Employers and Tips to Avoid Being Part of the Next Social Media Movement
May 4, 2018

Identification, Prevention and Response: Workplace Violence and Active Shooter
February 9, 2018

What You Don't Know About Anti-Harassment That You Better Learn
August 11, 2017

Employment Law Under the Trump Administration – Possibilities and Expectations
April 19, 2017

Harassment, Retaliation and the Pending November Elections
September 15, 2016

Attendance, Leaves of Absence and Reasonable Accommodations, Dykema Cox Smith Employer Rights Workshop
November 6, 2015

Common Mistakes Employers are Making in the Workplace Today, Dykema Cox Smith Employment and Employer Rights Workshop
May 8, 2015

Cox Smith Employment and Employer Rights Workshop: Who is Investigating Whom?
July 13, 2012

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Roadmap to Avoid Employment Related Lawsuits, Cox Smith Employment and Employer Rights Workshop
March 1, 2012

Cox Smith Employment FLSA Workshop — Wage and Hour Law
November 11, 2011

"How Annoying: Update on Harassment and Retaliation," presenter Ray Bissmeyer, LAHRM Human Resources Update:
Voyage into the Unknown
October 12, 2011

Cox Smith Employment and Employer Rights Workshop, El Paso, Texas
August 25, 2011

Cox Smith Employment and Employer Rights Harassment and Retaliation Workshop
June 23, 2011

Publications

"Marijuana in the Texas Workplace"
March 1, 2019
ACC Docket (South/Central Texas Edition)

"Marijuana in the Texas Workplace," Co-Author
1Q 2019
Focus, Association of Corporate Counsel of South/Central Texas

News

Ray Bissmeyer to Present at San Antonio Chamber's Project Ability Summit
September 25, 2018

Blog Posts

Lawsuit Filed to Stop August 1 Effective Date of San Antonio Paid Sick Leave Ordinance

San Antonio Passes Ordinance Requiring Paid Sick Leave

5th Circuit Reminds Employers to Follow Requirements of Arbitration Agreement

Supreme Court Approves Waiver of Class/Collective Actions In Arbitration Agreements. What Does it Mean for Employers?

Memberships & Involvement

- Federal Bar Association
- American Bar Association, Labor and Employment Law and Litigation Sections
- Texas Bar Association, Labor and Employment Law, Litigation and Appellate Sections
- San Antonio Bar Association
- International Association of Privacy Professionals (IAPP), Member
- American Employment Law Council, 2002-present
- Dykema Associates Development Committee, Co-Chair

Community/Civic Activities

- Governors Club, 2005-present

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- Alamo Heights Fort Sam Houston Youth Soccer, Head Coach/Manager, 2001, Fall 2005-present; Assistant Coach, 1995-1998 and 2002-Spring 2005; Board Member, 2001-2015; Commissioner of Coaches, 2003-2004; President, 2005-2013; Secretary, 2013-2015
- Kinetic Kids, Board Member 2009-present

Awards & Recognition

- *San Antonio Magazine*, "2019 Top Attorneys," Labor Employment
- Martindale-Hubbell® AV® Preeminent™ Peer Review Rating
- Selected for inclusion in *The Best Lawyers in America*® for Employment Law - Management, Labor Law - Management, and Litigation - Labor & Employment, 2007-Present, Copyright 2015 by Woodward/White, Inc., Aiken, SC; named "San Antonio Litigation – Labor & Employment Lawyer of the Year," 2014
- *S.A. Scene*, "San Antonio's Best Lawyers," Employment Litigation - Defense; Labor & Employment, 2016, 2018-2019
- Recognized in *Texas Super Lawyers*® for Employment Litigation: Defense, Labor & Employment, and Employee Benefits, 2005-Present