



Mark Wiletsky

Partner

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Mark Wiletsky partners with clients to provide timely, practical solutions to difficult business challenges, from employment-related issues to unfair competition and other business disputes, so that clients can stay focused on achieving their business objectives.

PRACTICES

Labor and Employment
 Healthcare Law
 Trade Secrets and Non-Competes
 Employment Litigation and Class Actions
 HR Counseling, Compliance, and Risk Management
 Discrimination, Harassment, Retaliation, and Litigation
 Accommodations, Disabilities, Leaves
 Labor and Management Relations
 Wage and Hour
 Class Actions
 Appellate

EDUCATION

University of Colorado School of Law,
 J.D., 1997

Northern Arizona University, B.A., 1993
cum laude

BAR ADMISSIONS

Colorado

COURT ADMISSIONS

U.S. Court of Appeals for the Fourth Circuit
 U.S. Court of Appeals for the Tenth Circuit
 U.S. Supreme Court
 U.S. Court of Appeals for the Eighth Circuit
 U.S. District Court for the District of Colorado

Businesses today face a variety of challenges, from compliance issues in the highly regulated health care industry to competitors trying to steal trade secrets, proprietary information, poach employees, file frivolous lawsuits, or gain market share through unlawful competition. Mark helps companies in these areas by developing a thorough understanding of the business and finding creative solutions, whether that comes in the form of aggressively prosecuting or defending claims in court, preparing written agreements, or negotiating a resolution to meet his clients' needs. Mark has extensive experience with labor and employment law, health care issues, and commercial litigation, handling complex disputes involving real estate developments, ownership rights, and defamation, among others.

When disputes arise, escalate, and require litigation, Mark draws on over 20 years of experience representing businesses in state and federal courts, administrative hearings, and arbitrations. Mark is also an effective appellate advocate, handling cases in state and federal appellate courts around the country.

Mark regularly blogs at www.coloradoemploymentlawblog.com. He is actively involved in the Employment Law Alliance (ELA), one of the world's largest labor and employment lawyer networks, that provides multi-state and multinational companies with seamless, cost-effective services worldwide. Mark also currently serves as Administrative Partner for Holland & Hart's Boulder office.

EXPERIENCE

Accommodations, Disabilities, Leaves

Discrimination, Harassment, Retaliation and Litigation

Employment Litigation and Class Actions

Health Care

HR Counseling, Compliance, and Risk Management

- Employment Policies, Handbooks, and Manuals
- Executive Compensation and Employment Contracts
- Hiring, Discipline, Performance Evaluations, and Terminations

- Non-Competes, Trade Secrets and Unfair Competition
- Pay Practices and Independent Contractors
- Workplace Privacy and Data Security
- Severance Agreements

Labor Management Relations

Commercial Litigation

- Appeals
- Business Torts
- Real Estate Disputes

CLIENT RESULTS

Representative Matters

Mark's wide-ranging industry experience includes working with clients operating in the healthcare, aerospace, software design, engineering, architecture, airline, and real estate industries, on:

Trade Secrets, Non-Competes, Unfair Competition, and Commercial Litigation

Lead counsel in defending bench trial of an FLSA collective action involving issues of joint employment and independent contractor status.

Lead counsel prosecuting an unfair competition case against a competitor engaging in providing health care without appropriate licensure under state law, which resulted in competitor shutting down its unlawful operation.

Lead counsel in obtaining preliminary injunction in federal court against former owners and executives of business who started competing business, in violation of non-compete agreements, after leaving company.

Successfully defended the client on appeal against a claim involving the enforceability of a noncompetition agreement in *Reed Mill & Lumber Co. v. Jensen*, 165 P.3d 733 (Colo. Ct. App. 2006).

Prevailed on all claims after multi-day arbitration involving complex real estate development dispute and awarded attorneys' fees in excess of one million dollars.

Employment Litigation

Successfully defended airline in jury trial involving discrimination and retaliation claims.

Lead counsel defending a healthcare transporter against significant statutory whistleblower claims; reached successful resolution of claims just before trial.

Successfully moved to dismiss case against client and individual supervisors filed by a former employee for breach of contract and related

causes of action.

PUBLICATIONS

"U.S. DOL Proposes New Joint Employer Test," *Colorado Employment Law Letter*, May 2019

"5 Tips for Accommodating Depression, PTSD, and Other Mental Illnesses," *HR Daily Advisor*, 11/06/2018

"Colorado Non-compete Law for Physicians Amended To Allow Continuing Treatment For Rare Disorders," *Employers' Lawyers Blog*, April 10, 2018

"Physician's Noncompete Unenforceable After He Dissents To Merger," *Employers' Lawyers Blog*, March 13, 2018

"Sexual Harassment – Employers Should Act Now," *Employers' Lawyers Blog*, 01/02/2018

"Draw Against Commissions: Keeping FLSA Minimum Wage and Overtime Violations At Bay," *Employers' Lawyers Blog*, November 20, 2017

"ADA Does Not Mandate Multi-month Leave of Absence As Accommodation, Says Seventh Circuit Court," *Employers' Lawyers Blog*, October 5, 2017

"Court Invalidates Overtime Rule Increasing Exempt Salary Levels," *Holland & Hart News Update*, 08/31/2017

"DOL Presses Reset Button On Overtime Rule," *Law360*, August 8, 2017

"Revisiting Enforcement of EEOC Subpoenas at 9th Circ.," *Law360*, June 27, 2017

"Positive Marijuana Drug Tests Up By 11% in Colorado, According To Recent Report," *Employers' Lawyers Blog and Law Week Colorado*, June 2017

"Is Comp Time Coming To The Private Sector?," *Employers' Lawyers Blog*, May 3, 2017

"How *McLane v. EEOC* May Affect Employer Subpoena Responses," *Law360*, April 11, 2017

"Supreme Court Confirms That EEOC Subpoena Enforcement Decisions Must Be Reviewed Under Abuse of Discretion Standard," *Employers' Lawyers Blog*, April 3, 2017

"Remove That Liability Waiver From Your FCRA Disclosure Form," *Employers' Lawyers Blog*, March 2, 2017

"Court Overturns \$1.3 Million Trade Secret Award Because Design Isn't Secret," *Employers' Lawyers Blog*, February 16, 2017

"SEC Targets Severance Agreements That Impede Whistleblowers,"

Employers' Lawyers Blog and Lorman Education Services, Co-Author, February 7, 2017 and May 2017

"[Tips For Accommodating Depression, PTSD, and Other Employee Mental Illnesses,](#)" *Employers' Lawyers Blog*, January 10, 2017

"[DOL's Overtime Salary Threshold Increase Is On Hold – Now What?,](#)" *Holland & Hart News Update*, 11/23/2016

"[Overtime Rule Put On Hold: Court Grants Nationwide Injunction,](#)" *Holland & Hart News Update*, 11/22/2016

"[Colorado Minimum Wage Hike Passes,](#)" *Holland & Hart News Update*, 11/09/2016

"[Firing an Employee on FMLA Leave Isn't Always Unlawful,](#)" *Law360*, October 27, 2016

"[Firing Employee On FMLA Leave Is Risky, But Not Always Unlawful,](#)" *Employers' Lawyers Blog*, October 2016

"[DOL Finalizes Paid Sick Leave Rule For Federal Contractors,](#)" *Employers' Lawyers Blog*, October 2016

"[Minimum Wage For Federal Contractors Going Up In 2017,](#)" *Employers' Lawyers Blog*, September 2016

"[Overtime Rule Lawsuit Seeks To Stop December 1st Changes,](#)" *Employers' Lawyers Blog*, September 2016

"[New Federal Trade Secret Act: What Employers Need to Know,](#)" *Employers' Lawyers Blog*, May 2016

"[Colorado Q&A,](#)" *Lexology Navigator - CO*, March 2016

"[Trade Secrets,](#)" *The Practitioner's Guide to Colorado Business Organizations, Chapter 31*, Co-Author, 2015-2016

"[Paid Sick Leave Requirements For Federal Contractors: What to Expect,](#)" *Employers' Lawyers Blog*, March 2016

"[EEOC Providing Employer Position Statements to Charging Parties,](#)" *Employers' Lawyers Blog*, February 2016

"[EEOC Proposes To Collect Pay Data From Employees,](#)" *Employers' Lawyers Blog*, January 2016

"[Holiday Party Checklist – Plan Ahead to Minimize Employer Risks,](#)" *Employers' Lawyers Blog*, December 2015

"[Unlimited Vacation Policy: Is It Right For Your Company?,](#)" *Employers' Lawyers Blog*, Co-Author, November 2015

"[Overtime Pay Changes May Be Delayed Until Mid-to-Late 2016,](#)" *Holland*

& *Hart News Update*, 11/16/2015

"Are Your Background Check Disclosure Forms FCRA-Compliant?," *Employers' Lawyers Blog*, November 2015

"EEOC's Conciliation Efforts Must Be Real, Not 'For Appearances Only,' After Mach Mining Decision," *Employers' Lawyers Blog*, July 2015

SPEAKING ENGAGEMENTS

"Employment Law - Managing Tricky Issues in Healthcare Settings," *Colorado Rural Health Forum*, April 2019

"Managing Leaves, Accommodations, and Terminations," *2018 Holland & Hart Employment Law Update*, September 13, 2018

"#MeToo: Keeping Employees Safe and Free from Inappropriate Workplace Conduct," *Holland & Hart Webinar*, 03/08/2018

"Most Difficult FMLA/ADA Issues and How to Solve Them," *Webinar*, February 8, 2018

"Managing Leaves under the ADA, FMLA, and Workers' Compensation," *Holland & Hart Webinar*, 10/12/2017

"Top Employment Law Issues Impacting the Hospitality Industry," *Hospitality Human Resource Association*, February 10, 2017

"Stay Out of Hot Water: Managing Leaves and Accommodations," Co-presented with Megan Holstein, Reed Group, *Holland & Hart Webinar*, January 2017

"Delayed Overtime Rule – What Employers Should Do Now," December 1, 2016

"Employment Law Update: Significant Developments and Trends," Co-presenter, *Business Law Institute*, September 2016

"Virtual Business Entities: Managing Remote Talent," *Boulder County Bar Association*, February 2016

"Handling Employment Discrimination Cases Under CADA," *Colorado Judicial Education*, February 2016

"New Developments in Federal and Colorado Law," *Panelist, Holland & Hart Employment Law Update*, 2014

RECOGNITION

- *Chambers USA: America's Leading Lawyers for Business*, Labor & Employment, Recognised Practitioner, 2018-2019
- *The Best Lawyers in America*® Litigation - Labor and Employment, 2013-2019
- Colorado Super Lawyers®, Employment & Labor, 2019

- Colorado Super Lawyers® Rising Stars, 2011

PROFESSIONAL AND CIVIC AFFILIATIONS

- Boulder County Bar Association, Employment Law and In House Counsel Sections, Past Co-Chair
- American, Colorado, and Boulder Bar Associations, Member
- Faculty of Federal Advocates, Member