

### Practice Areas

#### Labor and Employment

Affirmative Action Plans and OFCCP Compliance  
 EEOC Class Investigation and Litigation Defense  
 Discrimination Defense Trials and Arbitrations  
 FLSA/Wage-and-Hour Defense  
 California Employment Law  
 Executive Agreements and Severance  
 Labor Management Relations  
 Leave of Absence and Disability Advice/Defense  
 Non-Compete and Trade Secret Litigation  
 Pay Equity Advice and Defense  
 Pre-Hire Testing and Background Check Advice/Defense  
 Preventive Employment Counseling  
 Reductions in Force  
 Whistleblower/False Claims Act Defense  
 Workplace Investigations  
 Industry Focus: Health Care  
 Industry Focus: Restaurants  
 Industry Focus: Retail  
 Industry Focus: Tech  
 Startups

Nilan Johnson Lewis has an established track record of successfully defending individual and class-based employment discrimination demands, charges, and lawsuits for both big and small employers in many industries, including in the retail, insurance, financial services, health care, and logistics sectors. Our experience includes defense of private and government agency actions from the charge stage, to trial or arbitration, and through appeal. Our substantive expertise includes defense of discrimination and retaliation claims under numerous anti-discrimination laws, including Title VII, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Equal Pay Act, the Genetic Information Nondiscrimination Act, the Pregnancy Discrimination Act, and the Uniformed Services Employment and Reemployment Rights Act, as well as their state-law corollaries.

### Representative Matters

- *Communications Workers of America, et al. v. T-Mobile, et al.* (N.D. Cal.): Defending multiple national Fortune 50 employers against novel nationwide plaintiff and defendant class action alleging age discriminatory social media recruiting advertisements. This matter is still in confidential administrative proceedings.
- *Moldenhauer v. Honeywell* (D. Minn.): Defending against a class action alleging age discrimination in the context of a reduction in force. Named plaintiff agreed to dismiss all class claims; the individual claim is still in litigation.
- *Lloyd v. X Corporation* (Iowa Civil Rights Commission): Defending a Fortune 500 insurance company against a class gender pay equity claim. This matter is still in confidential proceedings.
- *Payne v. X Corporation* (Minneapolis Office of the EEOC): Defending a Fortune 500 technology company against a gender pay equity class claim. This matter is still in confidential proceedings.
- *EEOC (Atlanta Office) v. X Corporation* (Directed Investigation): Defended a Fortune 50 employer against a nationwide Directed Investigation alleging age discrimination in hiring. This matter is still in confidential proceedings.
- *EEOC (Philadelphia Office) v. Target Corporation* (E.D. Pa.): Defended against a class claim alleging racial discrimination in hiring, promotion, discipline, and discharge as well as race-based harassment. Successfully concluded the defense with a favorable settlement.
- *EEOC (Chicago Office) v. X Corporation*: Defended Fortune 50 employer against a nationwide investigation alleging that the employer's criminal background check policy violated Title VII of the Civil Rights Act of 1964. The EEOC agreed not to commence litigation.
- *EEOC (Minneapolis Office) v. X Corporation* (Commissioner's Charge): Defended a Fortune 500 employer against a nationwide Commissioner's Charge alleging violations of Title VII and the ADA. Negotiated a settlement that did not include any payment to the EEOC or any individual.
- *EEOC (Minneapolis Office) v. X Corporation* (ADEA Directed Investigation): Defended a Fortune 500 employer against a nationwide Directed Investigation alleging violations of the ADEA and EPA. Negotiated a settlement that did not include any payment to the EEOC or any individual.

- *EEOC (Minneapolis Office) v. X Corporation* (Commissioner's Charge): Defended a Fortune 50 employer against a Commissioner's Charge of discrimination alleging a nationwide class claim. The EEOC claimed that the employer's pre-employment tests constituted a medical examination in violation of the ADA and had a disparate impact based upon gender, race, and national origin. Negotiated a resolution with the EEOC.
- *McDade, et al. v. Target Corporation* (S.D.N.Y.): Defended a Fortune 50 employer against a nationwide Title VII class claim alleging that its criminal background checks had a disparate impact on African American and Hispanic applicants. Negotiated a settlement that was far lower than comparable claims against other employers.
- *Martin, et al. v. ING* (D. Minn.): Participated in the defense of nationwide class action race discrimination lawsuit against eight ING entities. The plaintiffs agreed to dismiss the class claims, and a confidential settlement of individual claims was reached.
- *EEOC v. FMI, et al* (D.N.D.): Defended Applebee's franchisee against EEOC class action alleging sexual harassment. Reached a confidential settlement.
- *EEOC (Minneapolis Office) v. Hobby Lobby* (D. Minn.): Defended a nationwide retailer against EEOC lawsuit alleging violations of the ADA. Obtained a favorable resolution.
- *EEOC (Milwaukee Office) v. Target Corporation* (E.D. Wis.): Defended against a class claim alleging racial discrimination in hiring and promotion. Obtained summary judgment on the EEOC's individual and class claims. The Seventh Circuit reversed a portion of the grant of summary judgment pertaining to just four individual claims, which were then resolved.
- *Johnson, et al. v. The Gap* (D. Minn.): Defended against a multi-plaintiff sexual harassment claim. Negotiated a confidential settlement.
- *Villarreal v. RJR* (11th Cir.): Filed an *amicus* brief on behalf of the Retail Litigation Center in support of a successful effort to obtain rehearing of a panel decision accepting disparate impact applicant claims under the ADEA. The *en banc* Court became the first Circuit Court of Appeals to hold that no such claim is cognizable under the ADEA.
- *Kleber v. CareFusion* (7th Cir.): Filed an *amicus* brief on behalf of the Retail Litigation Center in support of a successful effort to obtain rehearing of a panel decision accepting a disparate impact applicant claim under the ADEA. The *en banc* Court has yet to issue its decision.