

Practice Areas

Labor and Employment

Affirmative Action Plans and OFCCP Compliance
 EEOC/Agency Class Investigation and Litigation Defense
 Discrimination Defense Trials and Arbitrations
 FLSA/Wage-and-Hour Defense
 Corporate Immigration Law
 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 extensive experience and success in defending companies against EEOC and other government agency class litigation and investigations, including EEOC directed investigations and commissioner's charges, in various states across the country. These matters include several nationwide class discrimination investigations, such as a commissioner's charge alleging that a client's pre-employment assessments violated the ADA and Title VII; national-directed investigations alleging age discrimination in hiring, discipline, and terminations; and a commissioner's charge alleging Title VII violations arising from pre-employment criminal background checks. We have resolved nationwide class investigations and charges without any payment of money to the EEOC; we have won EEOC class claims at summary judgment; and we have persuaded the EEOC to abandon class claims upon a finding of no probable cause. Our record of success derives from a proactive and thoughtful approach to defending these claims. We do not merely react to the EEOC's investigation, we assist our clients in anticipating the EEOC's tactics and, thereby, shaping its investigations. This proactive approach has been crucial to resolving these matters on our clients' terms, instead of the EEOC's. At the same time, we have earned the EEOC's respect as effective problem solvers as much as forceful litigators.

Representative Matters

- *Lloyd v. X Corporation* (Iowa Civil Rights Commission): Defending a Fortune 500 insurance company against a gender pay equity class 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 to dismiss the underlying charges and 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. Target 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.
- *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.