

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: Manufacturing
Industry Focus: Restaurants
Industry Focus: Retail
Industry Focus: Tech Startups

We Know Restaurants

Restaurants face unique compliance and regulatory challenges. Due to high turnover, extensive regulations, unique business models, and thin profit margins, restaurants are prime targets for high-stakes employment law disputes. Nilan Johnson Lewis' Labor and Employment Restaurant Team attorneys are experts in the laws and regulations governing these areas and well-integrated into the food and restaurant industry. We've worked with some of the best and brightest eateries, from local startups to national franchises. We understand the importance of protecting the restaurant's brand, employment relationships and bottom line. Our unique mix of skill, experience, and connections in the industry has saved our restaurant clients from costly wage-and-hour class actions and employment discrimination claims.

Industry Expertise

- Compliance with unique tip-pooling laws and other key industry requirements. We have counseled top restaurants in designing tip-pooling policies, and we've successfully defended restaurants in these cases for years. We can advise national restaurants and franchises on federal law, Minnesota's unique statute, and other outlier states such as California and New York.
- Safe and sick leave compliance. More than 30 states and locales have laws requiring employers to provide sick and/or safe leave to employees. To develop a nationwide policy, employers must assess each law's requirements while carving out jurisdiction-specific provisions. We closely track developments in this fast-moving area to ensure sick leave policies are compliant.
- Predictive scheduling. Some states and locales require restaurants to comply with "predictive scheduling" or "fair workweek" laws. These laws require employers to provide employees advance copies of work schedules and prohibit employers from forcing unscheduled employees to report to work. Late schedule changes can result in additional compensation. We help restaurants review scheduling policies and practices to minimize liability.
- Minimum wage, tip credit, credit card fee credits, and service charges. State laws differ dramatically on numerous payroll issues uniquely affecting restaurants. Differing federal, state, and municipal laws govern wages, tip credits, application of credit card fees to tips, and service charges. NJL's team helps restaurants comply with these payroll laws regardless of location.
- Defending against class-based and individual discrimination lawsuits. These matters include numerous national class discrimination investigations, several "metoo" harassment lawsuits, and various other employment discrimination class claims. We have resolved nationwide class investigations and charges without any payment of money to the EEOC; defeated EEOC class claims at summary judgment; and persuaded the EEOC to abandon class claims upon a finding of no probable cause.

- Preventing no-poaching claims. Franchise restaurants are increasingly under attack for using “no-poach” agreements that prohibit franchisees from recruiting and hiring employees from other franchisees. We are experienced non-compete litigators and advisors and routinely help companies avoid liability in this area.
- Anti-harassment training. NJL draws upon recent scholarship and the most effective tools to customize anti-harassment training directed to restaurant leaders, supervisors, and staff. We tailor each training to address a particular workplace culture. This live, interactive training meets applicable state law requirements. Our diverse and bilingual (Spanish) team of lawyer-trainers have themselves worked in unionized workforces, social work, nonprofit organizations, and restaurant settings.
- Immigration. One of the more common paths to permanent residence for those in the restaurant industry involves labor certification of skilled workers, a category that includes ethnic cooks who possess at least two years of experience. NJL’s immigration team is experienced in labor certification and can help restaurants navigate the complexities of the permanent residence process.
- I-9 Compliance. I-9 compliance is critical for all employers. NJL works with employers of all sizes to ensure their I-9 compliance programs meet regulatory standards.