



(He/Him)

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Practices

- Advice and Counsel
- Distribution and Warehousing
- EPLI (Employment Practices Liability Insurance)
- Insurance
- Litigation
- Restrictive Covenants, Trade Secrets and Unfair Competition
- Staffing and Independent Workforce

Education

- George Washington University Law School, J.D. 1995
- University of Georgia, A.B. 1991

Admitted to Practice

- U.S. Supreme Court
- 5th Circuit Court of Appeals
- 6th Circuit Court of Appeals
- 11th Circuit Court of Appeals
- Georgia - M.D. Ga.
- Georgia - N.D. Ga.
- Supreme Court of Georgia
- Georgia Court of Appeals
- Georgia 1995

Todd Van Dyke is a principal in the Atlanta, Georgia, office of Jackson Lewis P.C. He litigates all types of employment law claims, including claims alleging sexual harassment, sex discrimination, disability discrimination, age discrimination, race, color, and national origin discrimination, retaliation, wrongful discharge, breach of contract, and state tort issues in federal and state courts and in arbitration.

His practice includes single plaintiff, multi-plaintiff, class and collective action cases and EEOC pattern and practice cases. Todd also regularly advises companies on a wide range of labor and employment law issues, including wage and hour, disability leave management, background checks, employment agreements, restrictive covenant agreements, and other human resources policies and procedures. He is a frequent speaker before business and employer associations on these topics. Todd has conducted more than twenty webinars and presentations in the last few years on many topics, including: “Practical Guidance on Employment Law Compliance,” “10 Most Common FLSA Mistakes – And How to Avoid Them,” “Practical Guidance on Wage and Hour Compliance: What Do You Really Need to Know?,” “Top Ten Questions Employers Ask,” “Employment and Regulatory Enforcement Activity is Underway: Are You Ready?,” “Social Networking Rights,” “Unintended Consequences of Employment Laws,” and “Understanding Georgia’s New Non-Compete Law.”

Todd regularly represents professional employer organizations and staffing companies throughout the United States. He is a member of the National Association of Professional Employer Organizations (“NAPEO”) and the American Staffing Association (“ASA”). Todd is co-leader of the firm’s HR Outsourcing group, which specializes in labor and employment law issues that impact PEOs, staffing firms and similar businesses.

Todd has extensive experience representing employment practices liability insurance (“EPLI”) carriers and defending their insureds in various legal matters. He has coordinated the defense of EPLI claims on a national level and a local level. He has also conducted training for underwriters and claims examiners on various employment law topics, including claims handling and processing, retaliation, and wage and hour.

Todd also has significant experience prosecuting and defending claims for injunctive relief and monetary damages involving trade secrets, non-competition agreements, non-solicitation agreements, and non-disclosure agreements. In 2012, Todd conducted training about Georgia’s new Restrictive Covenants Act for the Georgia Superior Court Judges Annual Summer Seminar that was held in Athens, Georgia.

Representative Cases

- Represented a technology company in a federal court jury trial in Atlanta. The plaintiff, a former employee, sought more than a million dollars in damages and attorney’s fees for

breach of contract and stock options. Defense verdict. (2015)

- Defended a national logistics provider in a multi-million dollar claim for breach of an employment agreement brought by a former high-level executive. After an arbitration on the merits, the Company prevailed. (2013)
- Represented a staffing company in FLSA collective action brought on behalf of current and former employees alleging they had been misclassified as exempt. Class was conditionally certified. Thereafter, obtained summary judgment on all claims, which was affirmed by the Eleventh Circuit Court of Appeals. The United States Supreme Court denied certiorari in 2011. *Bell et al. v. Callaway Partners et al*, 2010 U.S. Dist. LEXIS 36564 (N.D. Ga. 2010), aff'd, 394 Fed. Appx. 632 (11th Cir. 2010).
- Represented a manufacturer in a case involving claims the plaintiff was terminated because of his disability and his age. The plaintiff claimed the misconduct that led to his termination – sleeping on the job – was caused by his disability. Obtained summary judgment on all claims. *Howard v. STERIS Corp.*, 2012 U.S. Dist. LEXIS 116032 (M.D. Ala. 2012).
- Represented a retailer in a case involving claims the plaintiff was sexually harassed and terminated in retaliation for complaining about the harassment. Obtained summary judgment on all claims. *Faircloth v. Her-Kel Investments, Inc.*, 2012 U.S. Dist. LEXIS 80475 (M.D. Ga. 2012).
- Represented a company in a nationwide claim by the EEOC that the company had a leave policy that violated the ADA. The case was resolved on terms favorable to the company.
- Represented an insurance company in a case involving claims the plaintiff was discriminated against on the basis of race, disability and in retaliation for engaging in protected activity. Court granted a motion to dismiss all claims prior to discovery. *Carter v. The Hartford Fire Ins. Co.*, 2012 U.S. Dist. LEXIS 148630 (N.D. Ga. 2012).
- Represented a hotel in a high-profile case of harassment brought by a former employee, who alleged he had been harassed by a prominent entertainer. The case was resolved early on terms favorable to the hotel.
- Represented individuals and a company in a case that sought a declaration that several restrictive covenants were unenforceable. After successfully getting the case remanded to state court, the case was resolved on favorable terms. *Smith et al. v. Willis Insurance Services of Georgia, Inc.*, 2011 U.S. Dist. LEXIS 76089 (N.D. Ga. 2011).
- Represented a company in a case that opposed the plaintiff's attempts to obtain a declaration that several of his restrictive covenants were unenforceable. After successfully obtaining a dismissal of some claims prior to discovery, the case was resolved on favorable terms. *Rowland v. XPEDX, Inc.*, 2011 U.S. Dist. LEXIS 41214 (N.D. Ga. 2011).
- Represented a financial services company in an unfair competition arbitration. Defeated two motions for preliminary injunction, and obtained a defense verdict on all claims after a full hearing on the merits. *Allegiance Financial v. Hennessy and Citigroup Global Markets, Inc.*, NASD Case No. 06-01124 (2007).
- Represented an international manufacturer in an unfair competition case. After a weeklong jury trial in federal court, obtained a defense verdict on plaintiff's claim for misappropriation of trade secrets. Jury returned a verdict in favor of the plaintiff on a tortious interference claim that was significantly less than the last offer.
- Represented a food services company in a multi-state FLSA collective action involving allegations tipped employees were required to perform work outside of their tipped positions and the company included non-tipped employees in the tip pool. Obtained a

favorable settlement prior to conditional certification of a class.

- Represented a communications company in whistleblower action brought under the Sarbanes Oxley Act. Obtained a no liability determination.
- Represented a manufacturer in a case involving claims the plaintiff was terminated in violation of the ADA and the FMLA. Obtained summary judgment which was affirmed on appeal. *Hinson v. Tecumseh Products Co*, 2000 U.S. App. LEXIS 26778 (6th Cir. 2000).
- Represented a food processing company in FLSA collective and class actions brought on behalf of current and former employees who claimed they were not paid for all hours worked.
- Represented an insurance company in restrictive covenant litigation involving a former agent who had filed a declaratory judgment action. Obtained a ruling that the former agent's covenants were enforceable, and the former agent thereafter agreed to repay the company a six figure sum of money.
- Represented a retailer in an assault and battery arbitration. Defense verdict.
- Represented a retailer in an arbitration involving claims of race and sex discrimination. Defense verdict.
- Todd has conducted many TRO and preliminary injunction hearings in non-competition cases in state and federal courts throughout the Southeast.

Honors and Recognitions

- *The Best Lawyers in America*®, "Employment Law – Management" (2020-present) and "Litigation – Labor and Employment" (2014-present)
- *Georgia Super Lawyers*®, "Rising Stars" (2005-2006, 2009) and "Super Lawyers" (2013-present)

Published Works

- "Working Overtime: How Proposed Department of Labor Changes Could Impact Your Payroll," *The Bottom Line Magazine*(2015)
- "Top Five Termination Mistakes that Could Get You Sued," *The Bottom Line Magazine* (2014)
- "Business Ethics 101," *The Bottom Line Magazine*(2014)
- "Top Tips for Data Privacy," *The Bottom Line Magazine*(2014)
- "Understanding How the Supreme Court's Recent Rulings Impact Your Business," *The Bottom Line Magazine* (2013)
- "Practical Advice for Employers Facing Natural Disasters," *The Bottom Line Magazine* (2013)
- "Three Ways Employers Misclassify Workers – And How They Can Get It Right," *The Bottom Line Magazine* (2013)
- "A Year of Change: An Eagle-Eyed Look at 2013's New State and Local Laws," *The Bottom Line Magazine* (2013)
- "Recent Cases Affecting Employment Law," *PEO Insider*(May 2013)
- "Practical Guidance on Employment Law Compliance," *ADP TotalSource Special Report* (2012)
- "Rising Above the Risks of Social Media: Responsibilities and Policies in the Workplace," *ADP TotalSource Special Report*(2012)
- "At-Will Employment: Does It Really Matter Any More?" *The Bottom Line Magazine* (2012)
- "Practical Guidance on Wage and Hour Compliance: What Do You Really Need to Know?" (*ADP TotalSource Special Report*(2012)

- "The Impact of Religious Beliefs in the Workplace," *The Bottom Line Magazine*(2012)
- "Plan Ahead for the Reemployment of Returning Veterans," *The Bottom Line Magazine* (2012)
- "Deducting from an Employee's Pay: When Is It Okay?" *The Bottom Line Magazine* (2012)
- "Employment and Regulatory Enforcement Activity is Underway: Are You Ready?" *ADP TotalSource Special Report* (2011)
- "New Protection for Unemployed Job Applicants," *The Bottom Line Magazine*(2012)
- "Beware of the Risks of Background Checks," *The Bottom Line Magazine*(2011)
- "Applicability of State FMLA Laws to PEOs and Their Worksite Employers," *NAPEO Legal Review* (2011)
- "Proper Document Retention: Are You Protected or Exposed?" *The Bottom Line Magazine* (2010)
- "Interns and Volunteers: Free Help or Costly Legal Mistake?" *The Bottom Line Magazine* (2010)
- "I-9 Document Review," *PEO Insider*(2008)

Speeches

- Breaking News from Washington: Regulatory and EEOC Update (Georgia State Bar CLE 2012)
- Out With the Old, In With the New: Understanding Georgia's New Restrictive Covenants Law (Georgia Superior Court Judges 2012 Summer Seminar)