



(He/Him)

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Brian L. McDermott is the office managing principal of the Indianapolis, Indiana, office of Jackson Lewis P.C. His practice focuses on workplace training and representation of employers in labor and employment litigation.

Brian has dedicated his legal career of more than 25 years to representing private and public employers in individual, class, and collective employment actions, including cases involving: the FMLA, the ADA, Title VII, the ADEA, ERISA, the FLSA, the NLRA, covenant not to compete matters, trade secret matters, state wage laws, and wrongful discharge matters. He has represented employers in federal and state courts, labor arbitrations, and administrative agencies (including the EEOC and NLRB) throughout the country. He also has represented employers before the United States Court of Appeals for the Sixth and Seventh Circuits on multiple occasions.

Brian devotes a substantial portion of his practice to litigation avoidance and counseling. To this end, he works with employers to provide valuable employment training, including sexual harassment, hiring, employee terminations, union avoidance, diversity, and FMLA training. He assists employers in developing employee handbooks, personnel policies, employment contracts, non-compete agreements, severance agreements, and other employment-related documents.

A significant part of Brian's labor and employment practice involves representing employers in state and federal employment actions. Significant matters that he has handled include:

- Obtaining a Sixth Circuit appellate victory in an LMRA Section 301 case on behalf of a national auto parts manufacturer
- Obtaining dismissal of plaintiff's discrimination claims on behalf of a national financial services company
- Prevailing on summary judgment for an international food company in plant closing case under the ADEA
- Obtaining a Seventh Circuit Appellate victory in ERISA Section 510 case for a national retailer
- Securing a dismissal in an FLSA "misclassification" collective action for a regional retailer
- Obtaining a directed verdict at trial on behalf of an automobile dealership in a state-law employment action
- Obtaining a Seventh Circuit victory in an ADEA case for a national retailer
- Defeating a union representation petition filed with the NLRB against an Indiana-based hotel
- Obtaining an appellate victory at the NLRB on behalf of a major utility charged with violating Section 8(a)(1) of the NLRA

## Practices

- National Compliance and Multi-State Solutions
- Disability, Leave and Health Management
- Financial Services
- Healthcare
- Manufacturing
- Life Sciences
- Employment Litigation
- Retail

## Education

- University of Iowa College of Law, J.D. 1991
- Loras College, B.A. 1988

## Admitted to Practice

- U.S. Supreme Court 2023
- 6th Circuit Court of Appeals 2008
- 7th Circuit Court of Appeals 1995
- Indiana - N.D. Ind. 1992
- Indiana - S.D. Ind. 1992
- Iowa - N.D. Iowa 2004
- Iowa - S.D. Iowa 2006
- Ohio - N.D. Ohio 2004
- Indiana 1992
- Iowa 1999

- Prevailing on summary judgment for a national telecommunications company in an FMLA action
- Obtaining a Seventh Circuit appellate victory in an ERISA Section 502 case for a national telecommunications company
- Securing an appellate victory before the Sixth Circuit in an ADEA case
- Obtaining a dismissal of a discrimination case in Iowa on behalf of a national biomedical company
- Prevailing at summary judgment on behalf of a national retailer in an FLSA action
- Obtaining a dismissal of a Section 1981 claim for a national aeronautics company

#### NOTICE TO THE PUBLIC

The determination of the need for legal services and the choice of a lawyer are extremely important decisions and should not be based solely upon advertisements or self-proclaimed expertise. This disclosure is required by rule of the Supreme Court of Iowa. Memberships and offices in legal fraternities and legal societies, technical and professional licenses, and memberships in scientific, technical and professional associations and societies of law or field of practice does not mean that a lawyer is a specialist or expert in a field of law, nor does it mean that such lawyer is necessarily any more expert or competent than any other lawyer. All potential clients are urged to make their own independent investigation and evaluation of any lawyer being considered. This notice is required by rule of the Supreme Court of Iowa.

#### Honors and Recognitions

- *The Best Lawyers in America*®, “Employment Law – Management”, “Labor Law – Management” and “Litigation – Labor and Employment” (2011-present)
- *Chambers USA*, “Labor & Employment” (2018-present)
- *The College of Labor and Employment Lawyers* “Fellow” (2014-present)
- Indiana Chamber of Commerce, Samuel C. Schlosser Volunteer of the Year (2011)
- *Indiana Super Lawyers*®, “Super Lawyers” (2005-present)
- *Martindale-Hubbell*®, “AV Preeminent® – Peer Rated for Highest Level of Professional Excellence” (2008-present)

#### Pro Bono and Community Involvement

- Sheltering Wings, Inc., Volunteer

#### Published Works

- “Indiana Court Declines to Expand At-Will Employment Exception,” JL Legal Update Article (April 2019) [Author]
- “’Tis the Season to be Mindful of Workplace Accommodations,” Law360 (December 2017) [Author]
- “Five Tips to Ensure Proper Deposition Behavior,” Law360 (October 2017) [Author]
- “Country Snapshot: Employment & Labour Law in the USA, a Lexology Navigator Q&A,” Lexology (November 2016) [Author]
- “Five Essential Elements of Your Workplace Violence Plan,” PEO Insider (October 2016) [Author]
- “Indiana Court Finds Employee’s Attempt at Humor was not Protected Religious Expression,” Lexology (January 2014) [Author]
- “Reducing Risk Through the HR Audit,” PEO Insider (May 2013) [Author]
- “8 Ways to Reduce Employment Litigation Costs,” Law360 ((April 2013) [Author]

- “2013 Midwinter Meeting Report of 2012 FMLA Cases,” American Bar Association: Section of Labor and Employment, Committee on Federal Labor Standards Legislation (2013) [Contributor]
- “Keep Your Holiday Parties Merry, Bright, and Out of Court,” Law360 (December 2012) [Author]
- “Harassment and Teenaged Employees,” Indiana Restaurant Association: At Your Service Magazine (June 2011) [Author]
- “The Use of Experts in Employment Discrimination Litigation,” The Federal Lawyer (June 2011) [Author]
- “Seventh Circuit Looks at Religion in the Workplace from Two Different Perspectives,” HR Spotlight.com (February 2010) [Author]
- “Seventh Circuit Issues Two End-of-Year Religion-Based Rulings,” HR Spotlight.com (January 2010) [Author]

## Speeches

- Elevate Indiana! Diversity, Equity & Inclusion Best Practices for Business and Industry (Carmel, IN, October 2021) (Presenter)
- “Twists and Turns: Legal Strategies for the Most Complex Leave Issues Under the FMLA and ADA,” Labor and Employment Counsel Exclusive (Boca Raton, FL, November 2017) (Presenter)
- “Pregnancy Leave and Return Issues,” Clear Law Institute (Webinar, March 2017) (Presenter)
- “The FMLA: 2016 Style,” Indiana Chamber of Commerce (Indianapolis, January 2016) (Presenter)
- “What to Expect When Your Employees are Expecting,” Business & Legal Resources Webinar (Webinar, June 2015) (Presenter)
- “Family and Medical Leave Act 2015,” Indiana Chamber of Commerce (Indianapolis, IN, June 2015) (Presenter)
- “Harassment, She Wrote: The Interactive Anatomy of an Investigation . . . and Its Aftermath,” Indiana Chamber of Commerce (Indianapolis, IN, April 2015) (Presenter)
- “Family and Medical Leave Act 2014,” Indiana Chamber of Commerce (Indianapolis, IN, June 2014) (Presenter)
- “Pregnancy and Postpartum Issues in the Workplace,” Business Management Daily Webinar (Webinar, June 2014) (Presenter)
- “10 Tips for Improving Your Standard Employment Agreements: Offer Letters, Employment Agreements and Restrict Covenants,” Indiana Chamber of Commerce (Indianapolis, IN, April 2014) (Presenter)
- “Dealing with Difficult Employees: Discharge, Discipline . . . or Denial,” Indiana Chamber of Commerce (Indianapolis, IN, April 2014) (Presenter)
- “Resisting the Temptation to Get Even: Avoiding and Defending Workers’ Compensation Retaliation Claims,” Indiana Workers’ Compensation Conference (Indianapolis, IN, March 2014) (Presenter)
- “Pregnancy Accommodations/Workplace Accommodations,” XPert HR Webinar (Webinar, January 2014) (Presenter)
- “Avoiding/Preventing Workplace Harassment and Management Training for the 21st Century: Managing “Friends” in the Workplace,” Indiana Chamber of Commerce (Indianapolis, IN, April 2012) (Presenter)
- “Navigating the Troubled Waters of the FMLA & ADA: FMLA & ADA Compliance in the Real World,” Iowa State Bar Association (Des Moines, IA, April 2012) (Presenter)

- “Complex Leave of Absence Issues, Recent Legislative & Case Law Developments with the FMLA,” American Bar Association (San Francisco, CA, March 2012) (Presenter)
- “Changes in the ADA That Can Impact Your Organization,” Columbus AM Series (Columbus, OH, September 2011) (Presenter)
- “Wellness Programs That Work,” Indiana Chamber of Commerce (Indianapolis, IN, September 2011) (Presenter)
- “Final ADAAA Regulations: What You Must Know – and Do – To Comply,” Business & Legal Resources/Employer Resource Institute (Webinar, July 2011) (Presenter)
- “Key FMLA Court Decisions,” Indiana Chamber of Commerce (Indianapolis, IN, June 2011) (Presenter)
- “Final ADAAA Regulations: What You Must Know – and Do – To Comply,” Business & Legal Resources/Employer Resource Institute (Webinar, April 2011) (Presenter)
- “Best Hiring Practices,” Montgomery County HR Association (Crawfordsville, IN, March 2011) (Presenter)
- “GINA and the EEOC’s Implementing Regulations,” Indiana Chamber of Commerce (Indianapolis, IN, February 2011) (Presenter)
- “Final GINA Regulations Issued: What Employers Need to Know to Comply,” Business & Legal Resources/Employer Resource Institute (Webinar, December 2010) (Presenter)
- “You Make the Call!,” Indiana Chamber of Commerce (Indianapolis, IN, September 2010) (Presenter)
- “The Genetic Information Nondiscrimination Act: Its Impact on Employee Benefit Plans and Employment Practices” (a/k/a “I Dream of GINA”),” Indiana Chamber of Commerce, Wellness Council of Indiana, INShape Indiana: 2010 Indiana Employee Health and Wellness Summit (Indianapolis, IN, September 2010) (Presenter)
- “Don’t Leave Me!”: Managing the FMLA 2010,” Indiana Chamber of Commerce (Indianapolis, IN, June 2010) (Presenter)
- “50 Ways to Leave Your Employer,” Indiana Chamber of Commerce (Indianapolis, IN, May 2010) (Presenter)
- “The NLRB in the Obama Era,” Columbus AM Series (Columbus, OH, February 2010) (Presenter)
- “State and Local Government Law,” National Business Institute (Independence, IN, December 2009) (Presenter)
- “Updates to the Family and Medical Leave Act,” 2009 Warehouse Legal Practices Symposium Human Resource Issues (Chicago, IL, June 2009) (Presenter)
- “Evaluating Employee Performance and Workplace Harassment: Avoiding Legal Liability,” Park 100 Partners (Indianapolis, IN, May 2009) (Presenter)
- “The Changing Landscape of Federal Employment Law,” Wabash Personnel Association (Indianapolis, IN, May 2009) (Presenter)
- “Evaluating Employee Performance and Workplace Harassment: Avoiding Legal Liability,” Jennings County Human Resources (North Vernon, IN, May 2009) (Presenter)
- “Intermittent Leave Under FMLA: Understanding the Revised Final Regulations,” Institute of Management and Administration, Inc. (Indianapolis, IN, March 2009) (Presenter)
- “Trends in Non-Competes, Severance, and Outplacement in Today’s Marketplace,” HR Breakfast Club (Indianapolis, IN, June 2008) (Presenter)
- “Basic FMLA Workshop,” Indiana Chamber of Commerce (Indianapolis, IN, June 2008) (Presenter)
- “Family Leave: Will the Haze Dissipate?,” Indiana Chamber of Commerce (Indianapolis, IN, May 2008) (Presenter)

