

Scott M. Gilbert

EMPLOYMENT LITIGATION, ARBITRATION & DISPUTE
RESOLUTION CHAIR

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Scott Gilbert helps employers navigate the full spectrum of workplace challenges with a focus on practical solutions that align with business objectives. He counsels clients through every phase of the employment relationship—from onboarding and performance management to complex separation and post-termination issues.

Clients rely on Scott to understand their business goals, identify and mitigate risk so that they can effectively accomplish those goals, while also maintaining compliance with the evolving landscape of federal, state, and local employment laws. He provides guidance on a wide range of workplace matters, including restrictive covenants, wage and hour compliance, and employee discipline. Scott frequently assists employers in drafting and enforcing employment agreements and restrictive covenant provisions, as well as litigating related claims.

When disputes arise, Scott represents employers in employment litigation, arbitrations, and administrative proceedings before federal and state courts and administrative agencies. His practical, business-oriented approach helps clients minimize exposure and move forward with confidence.

Education

- Loyola University Chicago School of Law (J.D., *cum laude*, 2004)
 - Labor & Employment Law Moot Court Team; CALI Award recipient, Appellate Advocacy
- Wittenberg University (B.A., *cum laude*, 2001)
 - Political Science

Bar Admissions

- Illinois, 2004

Court Admissions

- U.S. District Court, Central District of Illinois
- U.S. District Court, Northern District of Illinois

Capabilities

- Biometric Privacy Law
- Employment Advice & Investigations
- Employment Class & Collective Actions
- Employment Litigation, Arbitration & Dispute Resolution
- Faith-Based Health Care Organizations
- Labor & Employment
- Labor & Employment - Health Care
- Restrictive Covenants & Trade Secrets Litigation

- U.S. District Court, Southern District of Illinois
- U.S. Court of Appeals, Seventh Circuit

Memberships

- American Bar Association
- Illinois State Bar Association
- American Health Law Association

Recognition

- Named "Litigation Star" by *Benchmark Litigation*, 2019-2026
- Selected for inclusion in *Best Lawyers in America*® for Litigation - Labor and Employment, 2018-2026
- Ranked in *Chambers USA: America's Leading Lawyers for Business*, Labor & Employment, Illinois, 2016-2017, 2021-2025
- Selected for inclusion in "Rising Stars" by *Super Lawyers* for Employment Litigation: Defense, 2013, 2015
- Loyola University Chicago School of Law Adjunct Faculty
 - Advanced Writing for Civil Litigation, 2008-2013
 - Labor Law, 2010, 2013

Matters

- Successfully defended financial services company in three-week state court jury trial based on equal pay and retaliation claims under California law.
- Successfully defended health system against claims of discrimination and retaliation under ADA and FMLA in federal jury trial.
- Successfully defended health system in arbitration against claims of sex discrimination and retaliation brought by physician, leading to subsequent dismissal of related state and federal court claims.
- Successfully defended technology company and its employee against claims based on an alleged breach of restrictive covenants under Minnesota law following expedited discovery and three-day preliminary injunction hearing.
- Successfully enforced restrictive covenant under Florida law against former regional sales director for a pharmaceutical company who had accepted a comparable position with a competitor servicing the same territory.
- Successfully enforced restrictive under Illinois against two former employees who left to begin a competing logistics company.
- Successfully enforced restrictive covenant under Louisiana against former sales representative for a medical device company who had accepted a comparable position with a direct competitor servicing the same territory.
- Successfully enforced restrictive covenant under New York law against former sales representative for a medical device company who had accepted a comparable position with a direct competitor servicing the same territory.
- Successfully enforced restrictive covenant under Missouri law against former account executive who had accepted a comparable position with a competitor servicing the same territory.
- Successfully defended technology company under Minnesota law against a tortious interference claim from a former employer by establishing that the two entities were not true competitors and that the employee at issue was not provided with sufficient

access to confidential information to create a protectable interest under the employee's restrictive covenant agreement.

- Successfully defended charge of sex discrimination and retaliation from former sales representative of medical device Company by establishing that basis for termination was plaintiff's failure to meet objective sales quotas and related discipline.
- Successfully defended real estate property owner against claims of race and age discrimination and retaliation from former employee who was terminated for performance issues.
- Successfully defended fire protection district in relation to claim from former fire chief alleging that termination violated 42 USC §1983, resulting in court granting motion to dismiss.
- Successfully defended construction company against proposed class action under the Americans with Disabilities Act and the Age Discrimination in Employment Act by establishing that there was insufficient statistical evidence of a disparate impact, and that physical abilities test administered to the plaintiff was job related and consist with business necessity.
- Successfully defended laboratory against claims of race and age discrimination raised by a former technician by establishing that plaintiff's objective performance deficiencies were the basis for termination.
- Successfully obtained dismissal of former employees claims under Americans with Disabilities Act by establishing that the plaintiff's failure to accommodate claims were outside the scope of the plaintiff's EEOC charge, and that plaintiff's retaliation claims failed due to an inability to establish that any of the allegedly retaliatory events were sufficiently severe to qualify as an adverse employment actions.
- Successfully defended manufacturer in labor arbitration in which the union alleged that the employer had improperly applied its bonus structure in violation of the collective bargaining agreement.