

Robert H. Smeltzer

Partner

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Services

Labor & Employment
Litigation
Employment Counseling
Labor Relations
Wage & Hour
RIFS & Severance Plans
Contracts & Commercial
Agreements
Outside General Counsel Services
Trade Secrets

Industries

Agribusiness & Food
Technology
Construction & Infrastructure
Financial Services
Retail & Consumer Goods
Health & Life Sciences

Rob Smeltzer has represented clients for more than 30 years in all phases of complex commercial, intellectual property, and labor and employment counseling and litigation. Rob's business and intellectual property law experience includes extensive trade secrets, restrictive covenants, breach of fiduciary duty and related tort litigation and counseling, contract, warranty, and officer and shareholder suits, as well as non-patent intellectual property litigation and counseling, and acting as an outside general counsel for mid-market companies, including drafting contracts and commercial agreements.

In the Labor & Employment field, Rob has handled hundreds of Title VII, ADEA, ADA, FLSA, ERISA, and FMLA matters before the U.S. Equal Employment Opportunity Commission (EEOC), the Illinois Department of Human Rights, the Illinois Human Rights Commission, the Chicago Commission on Human Relations, the U.S. Department of Labor, similar state agencies, and state and federal courts, including EEOC pattern and practice litigation, labor arbitration proceedings, and unfair labor practice charges before the National Labor Relations Board (NLRB). He also regularly handles claims involving employee misclassification, unpaid wages, overtime, bonuses, commissions, and/or expenses. Rob also conducts large-scale employee training in anti-harassment policies, supervisor training with respect to employee discipline, and handles and/or advises with respect to internal employer investigations of alleged harassment, discrimination, etc. Finally, he also regularly defends employers in cases involving allegations of negligent retention, hiring or referral, defamation, and breach of contract.

While attending law school, Rob was a member of the *University of Cincinnati Law Review*. He also served as an Adjunct Professor of Law at Loyola University School of Law for more than a decade, teaching courses in

Employment Law, Employment Discrimination, and Labor Law. He is also a proud member of the Choctaw Nation of Oklahoma.

Rob has been recognized by his peers as an Illinois “Super Lawyer” for Business Litigation, Employment Litigation, and/or Intellectual Property Litigation each year since 2013 by *Super Lawyers* magazine. Since 2016, he has been named a “Leading Lawyer” for Management Employment Law, Commercial Litigation, and/or Trade Secrets/Unfair Competition Law by *Leading Lawyers* magazine. Rob was also recognized as one of the “Top 40 Illinois Attorneys Under 40” by *Chicago Daily Law Bulletin* in 2005. He is AV® Preeminent™ rated by Martindale-Hubbell.

Experience

Wage & Hour:

*Represented the employer in defense of putative class action under the Illinois Wage Payment and Collection Act claims seeking compensation for time spent donning and doffing equipment and gear. Successfully obtained dismissal with prejudice of state court action based on preemption under Section 301 of the Labor Management Relations Act. Successfully defended that dismissal on appeal to the Illinois Appellate Court and denial of petition for leave to appeal to the Illinois Supreme Court.

*Defeated union grievance in Federal Mediation and Conciliation Service (FMCS) arbitration that employer violated collective bargaining agreement by failing to pay employees in accordance with Illinois Prevailing Wage Act.

Discrimination:

*Successfully defended and conciliated a pattern and practice charge of discrimination involving a class of African American and Hispanic workers, involving multiple possible affiliated employers and, potentially, a much larger class of affected applicants.

*Obtained not guilty jury verdict for multiple employers accused of age discrimination.

Sexual Harassment:

*Successfully defended doctor in sexual harassment and battery claim brought by a co-worker. By holding that the hospital could not be liable for the doctors’ alleged sexual harassment because of its prompt remedial measures, the court also vindicated our original handling of the internal complaint of harassment on behalf of the hospital.

*Obtained summary judgment in a sexual harassment and retaliation lawsuit for our client, a county sheriffs’ office. The claim was brought by a corrections officer at the county jail and primarily implicated the actions of her direct supervisor. In entering summary judgment on the difficult Ellerth/Farraher affirmative defense, the court found that the sheriff was not liable for any sexual harassment because: (1) he promptly investigated and handled plaintiffs’ internal complaint of harassment; (2) plaintiff unreasonably failed to avail herself of the sheriffs’ internal policy by failing to complain about the harassment sooner; and (3) plaintiff did not suffer the loss of any tangible job benefit. As for the retaliation claim, the court found notwithstanding the recent Supreme

Court in Burlington Northern v. White, that the allegedly retaliatory conduct did not rise to the level of a materially adverse employment action.

Restrictive Covenants/Trade Secrets/Breach of Employee Fiduciary Duty:

*Successfully obtained \$1M+ settlement and new, five-year non-competes for a publicly traded company in its suit against two former employees/officers accused of violating their fiduciary duties and restrictive covenants by competing during their employment.

*Successfully defended and negotiated a settlement of a trade secret misappropriation, breach of fiduciary duty, violation of the Computer Fraud and Abuse Act, and intentional interference with business relations claims against former employee and new employer.

*Successfully obtained emergency temporary restraining order (TRO) and preliminary injunction against a former sales executive who resigned and began soliciting former customers in violation of his restrictive covenants and with the aid of trade secrets. Later brought contempt charges against the former sales executive for violating the court-ordered restrictions.

*Obtained TRO and preliminary injunction against a former employee for violation of the Computer Fraud and Abuse Act and for Trade Secret misappropriation. Forensic evidence proved employee had downloaded client lists and other trade secrets, and defragmented company hard drive to cover his pre-resignation activities.

*Successfully defended former employee and new employer against former employers' breach of restrictive covenants and misappropriation of trade secrets.

*Experience gained by attorney prior to joining Kilpatrick

Education

University of Cincinnati College of Law J.D. (1991) *with honors, Dean's List*

Miami University B.S., Media Management (1987)

Admissions

Illinois (1991)

Court Admissions

U.S. Court of Appeals for the Eleventh Circuit (2008)

U.S. Court of Appeals for the Seventh Circuit (1994)

U.S. Court of Appeals for the Sixth Circuit (2003)

U.S. Court of Appeals for the Tenth Circuit (2019)

U.S. District Court for the Central District of Illinois (1995)

U.S. District Court for the District of Colorado (2011)

U.S. District Court for the Eastern District of Wisconsin (1996)

U.S. District Court for the Northern District of Illinois (1991)

U.S. District Court for the Western District of Michigan (1995)

Professional & Community Activities

Loyola University Chicago School of Law, Adjunct Professor (1999-2005)

Insights

[News Releases](#)

Over 100 Kilpatrick Attorneys Named 2025 Super Lawyers and Rising Stars
November 25, 2025

[News Releases](#)

Kilpatrick Attorneys Named 2025 Illinois Super Lawyers and Rising Stars
February 6, 2025

[Alert](#)

Cook County Implements Amendments to Paid Leave Procedural Rules
November 13, 2024

[News Releases](#)

126 Kilpatrick Attorneys Named 2024 Super Lawyers and Rising Stars
November 11, 2024

[Alert](#)

Illinois Independent Contractors Afforded New Avenues of Wage Recovery
November 5, 2024