



## Michael "Mike" Birrer

**Partner**  
**Executive Committee**

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**Employment law is more than regulations and statutes. It is making critical decisions about issues that impact the morale and safety of the workforce and that can advance or hinder business objectives. That's why, in addition to staying up-to-date on regulations and statutes, I take the time to understand my clients' business needs and strategic goals.**

Mike Birrer's national practice touches on every aspect of the employer/employee relationship. This ranges from drafting hiring policies to structuring mass layoffs. Although this has given Mike broad litigation and arbitration experience, he knows most clients want to avoid the courthouse. To that end, Mike provides employment counsel on a wide variety of legal issues, including employment policies, wage/hour compliance, safety rules, termination risks, protection of trade secrets, and the list goes on.

"Employment lawyers have to be ready for anything," Mike explains. With 30 years' experience, Mike knows, when the phone rings, he may need to discuss repercussions from a boisterous holiday party or the scope of ERISA fiduciary duties or how to adjust attendance requirements in the face of a worldwide pandemic. He's ready to have those conversations.

### Significant Matters

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#### Retaliation Claims

- Represented a local hospital in a retaliation lawsuit brought by three ICU nurses under the Texas Nursing Practice Act and Texas Health and Safety Code.

Summary Judgment was granted on the claims of one nurse, and after a bench trial, in January 2011, the district court entered judgment in favor of his clients and dismissed all claims with prejudice.

### **Discrimination Claims**

- Represented a local hospital in a multi-plaintiff discrimination lawsuit in which eight respiratory therapists claimed they were terminated in violation of Title VII and Section 1981. After extensive discovery, summary judgment was granted against all plaintiffs, which the Fifth Circuit affirmed.
- Represented a national mortgage brokerage firm in a series of inter-related arbitrations with claims of age discrimination, race discrimination, sex discrimination, and retaliation. After four separate arbitration hearings, all matters resulted in findings in favor of his clients.

### **ERISA**

- Represented the officers of a failed restaurant venture that had created an ESOP for its employees. Multiple plaintiffs sued for breach of fiduciary duties related to the substantial drop in the company's stock. After a bench trial, the court denied all monetary relief, and the case settled soon afterwards.
- Represented a national securities firm and a broker in an ERISA fiduciary violation lawsuit alleging imprudent investments and prohibited transactions. After a bench trial, the district court entered judgment in favor of his clients and dismissed all claims with prejudice.
- Represented outside directors of a Fortune 500 company in an ERISA fiduciary violation lawsuit alleging imprudent investment in company stock. After a significant Fifth Circuit procedural victory, the case settled.

### **Compensation**

- Represented manufacturing company in a case involving the alleged failure to pay a discretionary bonus. After a bench trial, the court entered judgment denying all relief to the plaintiff.

### **Counseling**

- Represented a local technology start-up company in creating employment policies, procedures, and training guidance.

### **Training**

- Provided anti-harassment training for property management company's employees in all offices in Texas.

### **Areas of Focus**

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#### **Industries**

- Health Care
- Real Estate and Construction

- Transportation and Infrastructure

### Services

- Noncompete and Trade Secrets
- Employment
- Litigation and Disputes

### Education

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- Vanderbilt University, J.D., 1992, Order of the Coif
  - Vanderbilt Law Review; Moot Court Board
- Hendrix College, B.A., 1989, magna cum laude

### Admissions

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- Texas, 1992
- Supreme Court Texas
- U.S. District Court Northern District Texas
- U.S. District Court Southern District Texas
- U.S. District Court Eastern District Texas
- U.S. District Court Western District Texas
- U.S. Court of Appeals Fifth Circuit
- United States Supreme Court

### Leadership

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- Dallas Bar Association, Labor and Employment Section, Member
- Dallas Bar Foundation, Member, Employment Section, Council Member
- Texas Bar Association, Labor and Employment Section, Member
- Texas Bar Foundation, Member
- City of Dallas Landmark Commission, Former Vice Chair
- Dallas Regional Chamber of Commerce, Leadership Dallas 2013
- Lumin Education (Charter School), Board Member
- Creative Arts Center of Dallas, Advisory Board Member and Past President
- Meadows School for the Arts, Southern Methodist University, Past Executive Board Member
- Booker T. Washington High School for the Performing and Visual Arts, Council Member and Past President

## Recognition

- Lawdragon 500, Leading Litigators in America, Labor and Employment Litigation, 2024
- Lawdragon 500, Corporate Employment Lawyers, 2024
- *Best Lawyers in America*, 2019-present, Employment Law – Individuals, Employment Law – Management, and Litigation – Labor and Employment
- D Magazine Best Lawyers in Dallas, 2012 and 2017-2018, 2020, Labor & Employment
- Martindale-Hubbell AV Preeminent® Rating
- Fortune Magazine, 2013 Top-Rated Lawyer, Labor & Employment Law
- Texas Super Lawyers, as published in *Texas Monthly* magazine, 2020-2023
- Texas Super Lawyers – Rising Stars, 2004-2007



## Speeches/Publications

- *Technological Advances in the Practice of Law*, Young Professionals Forum, Dallas Regional Chamber of Commerce (October 2014).
- *Hot Topics in FMLA Law*, Dallas Bar Association, Employment Section Presentation (August 2014).
- *IRS Adopts The "State of Celebration" Analysis To Recognize All Legal Same-Sex Marriages*, Carrington Coleman Employment Law Bulletin (September 2013).
- *Supreme Court Issues Two Important Title VII Rulings Today*, Carrington Coleman Employment Law Bulletin (June 2013).
- *New FMLA Regulations Issued*, Carrington Coleman Employment Law Bulletin (May 2013).
- *ERISA and ADA: Discrimination Based on Benefits*, Dallas Bar Association Employment Law section (January 2013).
- *EEOC's Revised Guidelines on Background Checks*, Carrington Coleman Employment Law Bulletin (April 2012).
- *NLRA and Non-Union Employees*, Webinar, April 2012.

- *Successful Partnering Between Inside and Outside Counsel*, Employment Law Chapter, WestGroup & ACCA 2000, Supplements 2001-2011.
- *How to Hire and Fire in 96 Jurisdictions*, Texas Chapter, Multilaw Group, 2011.
- *The ADAAA Final Regulations: What You Need to Know*, Client Presentation (April 2011), and upcoming Dallas Bar Association, Labor and Employment Section, Presentation (June 2011).
- *Consumer Arbitration Ruling Suggests Employers Can Contract Around Class Arbitrations*, Carrington Coleman Employment Law Bulletin (May 2, 2011).
- *Social Networking Policy: Part II*, Carrington Coleman Employment Law Bulletin (November 10, 2010).
- *Monitoring Employee Emails*, Carrington Coleman Employment Law Bulletin (November 9, 2010).
- *Cyber Issues in Employment Law*, Dallas Bar Association, Labor and Employment Section, Presentation (November 2010).
- *Department of Labor Clarifies Definition of In Loco Parentis for FMLA Purposes*, Carrington Coleman Employment Law Bulletin (June 25, 2010).
- *Supreme Court Issues Opinion on Limitations Periods in Disparate Impact Cases*, Carrington Coleman Employment Law Bulletin (May 26, 2010).
- *Employers Required to Provide Break Time and Private Place for Nursing Mothers*, Carrington Coleman Employment Law Bulletin (May 18, 2010).
- *Social Networking Site Use Policy*, Carrington Coleman Employment Law Bulletin (February 5, 2010).
- *College Degree Required: Look Out for Scams*, Carrington Coleman Employment Law Bulletin (November 12, 2009).
- *More Changes to FMLA*, Carrington Coleman Employment Law Bulletin (November 3, 2009).
- *Time to Get a New Poster*, Carrington Coleman Employment Law Bulletin (October 27, 2009).
- *Proposed ADA Regulations Will Be Issued This Week*, Carrington Coleman Employment Law Bulletin (September 22, 2009).
- *Change is Here, More is Coming: Legislative and Regulatory Employment Law Update*, Client Presentation (August 2009).
- *U.S. Supreme Court Rules for White Firefighters in Reverse Discrimination Case*, Carrington Coleman Employment Law Bulletin (June 30, 2009).
- *Employment Eligibility Verification Form*, Carrington Coleman Employment Law Bulletin (June 30, 2009).
- *Supreme Court Rejects Mixed Motives in ADEA Cases*, Carrington Coleman Employment Law Bulletin (June 18, 2009).
- *The 81st Texas Legislature*, Carrington Coleman Employment Law Bulletin (June 5, 2009).
- *EEOC Addresses Caregiver Discrimination*, Carrington Coleman Employment Law Bulletin (April 24, 2009).
- *Supreme Court Issues Opinion on Noncompetes Under Texas Law*, Carrington Coleman Employment Law Bulletin (April 17, 2009).
- *Get Ready to Switch Out Your I-9 Forms For Incoming Employees!*, Carrington Coleman Employment Law Bulletin (March 31, 2009).

- *The New FMLA Regulations – Update*, Client Presentation (January 2009); Dallas Bar Association, Labor and Employment Section, Presentation (March 2009).
- *Recent Developments in ERISA Fiduciary Litigation*, CCSB Client Seminar.
- *Workplace Violence – Overview of Legal Issues*, Institute of Real Estate Management.
- *How to Avoid Litigation: Defending Against EEOC Investigations*, National Law Seminar Institute.

## Outside of Work

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I recently completed my first 10K (think walk not run). A big reader, I am also in a book club that has been operating continuously for more than 25 years. We meet on the first Sunday of every month. There is no overarching type of book—which keeps things interesting. Recent picks have included *Lincoln Highway* by Amor Towles, *Cloud Cuckoo Land* by Anthony Doerr, and *Gilgamesh* (an epic poem that I must admit to only skimming).