

## EMPLOYMENT LAW

The Employment Law Department provides preventive counseling to both large and small employers on a wide range of compliance issues and evolving statutory requirements, including those related to wrongful discharge, discrimination, sexual and other forms of harassment, family and medical leaves of absence, disability and substance abuse. If litigation is necessary, the Employment Law Department has handled all types of employment matters before federal and state courts and various administrative bodies.

From its inception, Cole Schotz has been known for its labor and employment law expertise. One of the firm's founders, David Cole, a noted labor arbitrator and mediator, served as Director of the Federal Mediation and Conciliation Service, and counseled every U.S. President from Harry S. Truman to Gerald R. Ford in national labor crises. The Employment Law Department continues that fine tradition today.

Our attorneys also work closely with human resource professionals on many other personnel matters, such as pre-hiring considerations, employee manuals and employee job performance and termination issues.

If disputes arise, the Employment Law Department has extensive litigation experience. Our attorneys appear regularly in state and federal courts and before administrative agencies such as the New Jersey Division on Civil Rights, the New York State Division of Human Rights and the United States Equal Employment Opportunity Commission. Many of the attorneys in the Employment Law Department have been members in the prestigious Sidney Reitman Employment Law Inn of Court, the first Inn of Court in the nation that exclusively focuses on labor and employment issues.

The Employment Law Department is involved in, among other things:

- Employment litigation defense
- Complex litigation, such as class actions and multi-party suits
- Representation before administrative agencies
- Negotiation of separation/severance packages
- Preparation of employment contracts, including restrictive covenants
- Preparation and review of employee manuals and employment policies
- Counseling with regard to personnel matters
- Investigation of harassment complaints
- Conducting training regarding sexual and other unlawful harassment
- Restructuring, downsizing and other corporate transactions
- Public sector employment issues
- OSHA compliance and other safety and health issues

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- Wage-hour and other labor standards issues

### **Representative Clients**

- Audi of America
- Alfred Sanzari Enterprises
- Bentley Motorcars, Inc.
- DAVA Pharmaceuticals, Inc.
- DFDS Transport (US), Inc.
- Goya Foods, Inc.
- Inserra Supermarkets
- Intrawest Corporation
- Pantone, Inc.
- Prestige Motors
- Uniteller Financial Services
- Volkswagen of America

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### REPRESENTATIVE MATTERS

Cole Schotz often is on the cutting edge of employment litigation. For example, the Employment Law Department handled what is believed to have been the largest wage and hour class action under the New Jersey wage and hour laws. The suit, filed against Nestlé Waters North America in Superior Court, Hudson County, involved Poland Spring and approximately 600 of its New Jersey-based drivers who alleged entitlement to overtime. The class action, which raised a number of novel employment law issues, was settled for approximately \$5 million.

The Employment Law Department recently successfully represented the Vice Chairman of a Fortune 500 and S&P 500 company negotiating and protecting an eight figure retirement benefits package when the employer was looking to lay blame for its substantial subprime mortgage write offs.

Goya Foods, the nation's largest Hispanic-owned food company, called on the Employment Law Department to defend it in a suit brought by Goya's former Director of Marketing alleging national origin discrimination and breach of contract. The suit involved eight lucrative severance agreements valued at approximately \$4 million distributed by Goya's former President and Chairman behind the back of the Board of Directors. We obtained the dismissal of the discrimination claim prior to trial. With regard to the severance agreements, after a two-week trial, the jury returned a verdict in Goya's favor, finding the agreements unenforceable.

The Employment Law Department successfully enforced a financial services company's restrictive covenant against a departing employee who stole a substantial piece of business from our client in violation of his contractual obligations. Within months of filing the Complaint, Cole Schotz secured a settlement with the former employee and his new company pursuant to which our client recovered nearly all of the profits it lost on the stolen project.

Cole Schotz successfully obtained the dismissal of a child care service provider's lawsuit filed in the Superior Court of New Jersey, alleging retaliation under the New Jersey Conscientious Employee Protection Act, wage and hour violations, breach of contract, and violations of the New Jersey Constitution. The dismissal at such an early stage in litigation not only did away with any potential liability, but also saved the company substantial attorneys' fees and costs.

Cole Schotz represented EmpireCLS Worldwide Chauffeured Services, one of the nation's largest chauffeured limousine companies, in two purported wage and hour class actions. In the first case lodged against Empire in California State court, the plaintiff limousine driver alleged that the company failed to pay drivers overtime compensation and failed to properly compensate the drivers for rest and meal periods. As lead counsel, Cole Schotz successfully convinced the court that the matter was inappropriate for class treatment and, following the court's denial of class action

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certification, the firm was able to dispose of the case on extremely favorable terms.

In the second wage and hour class action brought against the company, also in California, the plaintiff drivers asserted claims for unpaid wages and overtime. In this case, Cole Schotz was able to settle the matter favorably without the court ever deciding the issue of class certification. Cole Schotz saved the company from potential exposure for unpaid wages to present and former employees, as well as attorneys' fees and costs.