



# Labor & Employment

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## OVERVIEW

AP&S attorneys assist public and private-sector employers, both unionized and union-free, in complying with complex laws and avoiding litigation by dealing with employees effectively, fairly and legally. In addition to providing day-to-day employment counseling, we also handle the ever-changing array of matters facing employers today, including:

- National Labor Relations Board matters;
- Collective bargaining;
- Defending against unfair labor practice and other charges under FLSA, Title VII, ADA, FMLA, OSHA and other laws;
- Representing employers before government agencies and tribunals;
- Dealing with virtually every aspect of employment relationships.

We work hand-in-hand with employers to anticipate and short-circuit issues before they become major problems, drafting smart policies and useful employee handbooks, counseling employers on various federal and state statutes, conducting management and employee training, assisting in force reductions and plant closings, and negotiating and drafting employment agreements.

## Areas of Concentration

- Employment discrimination litigation
- Union contract negotiations and administration
- Employee relations consultation
- Labor/management relations
- Federal and state compliance, including wage and hour law and OSHA
- Non-compete litigation

## REPRESENTATIVE MATTERS

- ***United Steelworkers, Local 12431 and National Grid(2015)***: Represented one of the largest investor-owned energy companies in the world which provides gas and electric service to customers in Massachusetts, New York and Rhode Island in a grievance arbitration with United Steelworkers, Local 12431 regarding a 25-year employee discharged for stating that she could have shot her supervisor and later stating that she would like to shoot eight of her ten co-workers. The union sought the employee's reinstatement, along with back pay and benefits. The arbitrator found that the employee's termination was for just cause, particularly given that the employee lacked any remorse for causing her supervisors and co-workers to be in fear for their safety.
- ***Hall v. City of Newport, RIPTA, et al, C.A. No. 07-0243 (R.I. Super. Ct. 2015)***: Successfully argued for entry of summary judgment in favor of a quasi-public entity on a claim of negligent retention of an employee.
- ***Twin River Security Officers' Union and Twin River Casino, AAA Case No. 11 300 01556 13 (2014)***: Prevailed in a grievance arbitration in a case where the union contended that Twin River violated the collective bargaining agreement by involuntarily holding employees over to work a second shift after the conclusion of the employees' regular shift. This victory was significant in that it allowed Twin River to maintain flexibility and discretion over staffing and scheduling decisions.
- ***Local Union 310, Utility Workers Union of America and National Grid,AAA Case No. 11 576 00906 13 (2014)***: Successfully defended a grievance arbitration on behalf of one of the largest investor-owned energy companies in the world which provides gas and electric service to customers in Massachusetts, New York and Rhode Island. The union representing a design engineer with 22 years of seniority who had been terminated for running an outside business from his company computer sought the employee's reinstatement, along with back pay and benefits. The arbitrator determined that the employee's termination was for just cause, and that the employee's termination, despite the lack of any prior discipline, was justified under the circumstances.
- ***Fisher v. Sojourner House, C.A. No.13-5503 (R.I. Super. Ct. 2014)***: Prevailed on consecutive motions to dismiss employment claims, including a whistleblower claim, against a nonprofit entity and its officers and directors.
- ***Frito-Lay, Inc. v. Rhode Island Department of Labor and Training, et al, C.A. No. PC-2012-1488, 2013 R.I. Super. LEXIS 71 (R.I. Super. Ct. 2013)***: Successfully argued in Rhode Island Superior Court that an agency decision that would have likely resulted in over \$1 million of overtime pay liability against our client should be reversed.
- ***Kaczorowski v. Town of North Smithfield, C.A. No. 12-327-M (D.R.I. 2013)***: Successfully advocated for entry of summary judgment in an employment termination case that interpreted a municipal charter and determined the powers of a town council to terminate an employee in a charter-based

position. The case was chosen as one of the most important decisions of 2013 by *Lawyers Weekly*.

- ***Richardson v. Whitmarsh Corporation, 2009 WL 5178075 (D.R.I. 2009)***: Won summary judgment for employer-client in the U.S. District Court for the District of Rhode Island with respect to all claims asserted against it, including alleged violations of federal and state disability discrimination statutes and various education laws.
- Successfully represented Rhode Island's largest gaming facility in collective bargaining negotiations with the various unions that represent its employees.

## SEMINARS / PUBLICATIONS

### Seminars

- Lori Caron Silveira, Walking the Line; Ethical Issues in Pro Se Matters, New England Consortium of State Labor Relations Agencies 15<sup>th</sup> Annual Conference, July 2015.
- Michael D. Chittick, Cloudy with a Chance of Negotiations: An Updated Forecast on Mandatory, Permissive, and Prohibited Subjects of Bargaining, July 2015.
- Robert P. Brooks, Government Relations and Business, Providence Business News Summit, November 2014.
- Rory Z. Fazendeiro, Speaker, 2014 Employment Law Update, SBANE HR Committee, February 2014
- Rory Z. Fazendeiro, Great Places to Work Share Best Practices for Success, program organizer/ Co-Chair, SBANE HR Committee, January 2014.
- Robert P. Brooks and Andrew C. Spacone, Providence Business News Nonprofit Summit, December 2013.
- Robert P. Brooks, Social Media in the Workplace – What's an Employer to Do?, Newport Chamber of Commerce Human Resources Roundtable, November 2013.
- Lori Caron Silveira, Ethics in Labor Law – Traps for the Unwary, New England Consortium of State Labor Relations Agencies 13<sup>th</sup> Annual Conference, July 2013.
- Rory Z. Fazendeiro, Restrictive Employment Covenants: Protecting Your Most Valuable Business Interests, Speaker, Rhode Island Continuing Legal Education, May 2013.
- Robert P. Brooks, 15<sup>th</sup> Annual Legislative & Employment Law Conference, Rhode Island State Council Society for Human Resources Management, April 2013.

- Rory Z. Fazendeiro, Mitigating Your Employment Risks, Restrictive Covenants in Massachusetts, Speaker, SBANE Annual Program, January 2013.
- Lori Caron Silveira, Negotiation For and With Retirees, 13<sup>th</sup> Annual Labor Arbitration Conference, October 2012.
- Lori Caron Silveira, Notification for Employee Rights, Newport Chamber of Commerce, Human Resources Roundtable, February 2012.
- Rory Z. Fazendeiro, Proper Classification of Contractors and Employees, Speaker, Rhode Island Continuing Legal Education, May 2011; SBANE Webinar, 2011.
- Lori Caron Silveira, Employment Discrimination Update 2010, RI Bar Association Annual Meeting, June 2010.
- Rory Z. Fazendeiro, 2010 Employment Law Update, Speaker, SBANE HR Committee, February 2010.
- Rory Z. Fazendeiro, Be Aware & Prepare for the Employee Free Choice Act, Small Business Association of New England, August 2009.
- Lori Caron Silveira, Employment Discrimination Update – 2009, RI Bar Association Annual Meeting, June 2009.

## **Publications**

- Michael D. Chittick, Contributing editor, How To Take A Case Before The NLRB, BNA, 7<sup>th</sup> and 8<sup>th</sup> editions.
- Robert P. Brooks, Inside The Minds Series, Complying With Employment Regulations, "Understanding Key New Employment Regulations," Aspatore Books, 2012.

## **AWARDS**

Ranked top among law firms in Rhode Island in Chambers USA.



Rated Tier 1 Metropolitan "Best Law Firm" by U.S. News-Best Lawyer.

