

Mark McNitzky

Senior Counsel

Mark McNitzky currently focuses his practice on the defense of various employment law litigation matters at trial and in private arbitration proceedings, including single plaintiff and collective cases alleging violations of Title VII of the Civil Rights Act of 1964, the Texas Commission on Human Rights Act (Chapter 21 of the Texas Labor Code), the Americans With Disabilities Act, the Americans With Disabilities Act, As Amended, the Age Discrimination in Employment Act, Chapter 451 of the Texas Labor Code (workers' compensation retaliation cases), the Fair Labor Standards Act (FLSA) and the Employee Retirement Income Security Act (ERISA). Mark also frequently defends charges of discrimination brought before the Equal Employment Opportunity Commission and the Texas Workforce Commission – Civil Rights Division at the administrative level, including representing clients during the course of EEOC onsite investigations and witness interviews. In addition, Mark regularly counsels clients on a wide array of employment issues such as employee discipline, hiring, and termination, unemployment compensation, and compliance with federal leave, wage and hour, and anti-discrimination laws.

Prior to joining Clark Hill, Mark worked for seven years at a national labor and employment litigation boutique firm in San Antonio, Texas where he specialized in labor and employment matters. Mark began his practice working at a civil defense litigation firm in the Rio Grande Valley (McAllen, Texas) handling a wide range of matters in various areas, including, but not limited to, banking law, bankruptcy law, commercial litigation/collections, and business/fiduciary litigation.

Mark is originally from the San Antonio, Texas area. He enjoys such hobbies as running, reading, following Texas Tech football and basketball, and spending quality time with wife Vanessa and children Grayson and Colette.

EXPERIENCE*

- Obtained summary judgment in the United States District Court for the Southern District of Texas in March 2014 in favor of multi-national manufacturing company in suit brought by former employee alleging a failure to accommodate, disability discrimination and retaliation in violation of the Americans With Disabilities Act and the Americans With Disabilities Act, As Amended.
- Successfully represented limited liability company defendant in a breach of contract case tried to a jury in State District Court in Cameron County, Texas in September of 2011.
- Represented and defended businesses and individuals throughout the Rio Grande Valley and South Texas, including large financial institutions and oil and gas companies.
- Represented various creditor financial institutions in bankruptcy proceedings and collection matters in state and federal courts throughout South Texas.
- Represented and defended multiple Fortune 500 companies in employment discrimination cases in state and federal courts throughout Central and South Texas.

**Work completed prior to joining Clark Hill.*

PRESENTATIONS

- Rio Grande Valley Society for Human Resource Management Annual Conference, "Employment Law Update," McAllen, (September 2019)
- 33rd Annual Seminar on Ad Valorem Taxation, "Ethics in the Workplace," San Antonio, (August 2019)
- Hill Country Human Resources Management Association Employment Law Seminar (Co-Presenter), "Employment Law Update," San Marcos, (August 2019)
- San Antonio Breakfast Briefing (Co-Presenter), "Disability Accommodations and the Interactive Process," San Antonio, (February 2019)
- Rio Grande Valley Society for Human Resource Management Annual Conference, "No Vacation from Retaliation," Mission, (September 2018)
- San Antonio Hotel & Lodging Association and San Antonio Tourism Council Labor Law & Safety Seminar, "Headline News: An Employment Law Update," San Antonio, (August 2018)
- Hill Country Human Resources Management Association Employment Law Seminar (Co-Presenter), "No Vacation from Retaliation," San Marcos, (June 2018)
- South Texas Seminars (Co-Presenter), "Employment Law Update," McAllen and Laredo, (April 2018)
- Rio Grande Valley Society for Human Resource Management Annual Conference (Co-Presenter), "The



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Education

J.D., Texas Tech University School of Law, Lubbock, Texas, 2008

B.B.A., Texas Tech University, Lubbock, Texas, 2005

State Bar Licenses

Texas

Court Admissions

U.S. District Ct., E.D. of Texas

U.S. District Ct., N.D. of Texas

U.S. District Ct., S.D. of Texas

U.S. District Ct., W.D. of Texas

U.S. Court of Appeals, 5th Circuit

- Invisible Workforce: Managing Leave Entitlements to Get Employees Back to Work (or on Their Way)," Mission, (September 2017)
- Ogletree Deakins Briefing (Co-Presenter), "Headline News: The Latest Employment Law Developments," Laredo, (October 2016)
- Sterling Services Seminar, "2015-2016 Case Law and Legislative Review," San Antonio, (April 2016)
- Sterling Services Seminar, "Implementing the Affordable Care Act in 2016 and Beyond," San Antonio, (April 2016)
- San Antonio Breakfast Briefing Presentation (Co-Presenter), "Employment Law Update," San Antonio, (September 2015)
- San Antonio Hotel & Lodging Association Seminar, "Employment Law Update," San Antonio, (April 2015)
- Lutheran Services of America Seminar, "New Issues Regarding FLSA White-Collar Exemptions and the Pregnancy Discrimination Act," San Antonio, (April 2015)
- South Texas Seminars, "Employment Law Update: Hot Topics in 2015," Corpus Christi, McAllen, (April 2015)
- San Antonio Toy Drive Presentation (Co-Presenter), "The Most Influential Labor and Employment Cases of 2014," San Antonio, (December 2014)
- South Texas Seminars, "Employment Law Update: Issues on the Horizon," Corpus Christi, McAllen, Laredo, (April 2014)
- Sterling Services Seminar, "Termination Best Practices," San Antonio, (April 2014)

PUBLICATIONS

- Supplement to 2019 Midwinter Meeting Report of 2018, ABA Section of Labor and Employment Law, Committee on Federal Labor Standards Legislation, Subcommittee on the Family and Medical Leave Act Publication (Contributing Author), (August 2019)
- "Absence Does Not Make the Heart Grow Fonder: Texas Court Holds Attendance Issues Can Preclude Disability Claims," Blog Article, (April 2018)
- "Is a Threatened Pay Cut an Adverse Action? Fifth Circuit Issues Pro-Employer Ruling in Retaliation Case," Blog Article, (February 2016)
- "Coffee and Tipping Do Not Mix: Fifth Circuit Rejects Behind-the-Scenes Baristas' Tip Pooling Arrangement," Blog Article, (March 2015)
- *2015 Midwinter Meeting Report of 2014*, ABA Section of Labor and Employment Law, Committee on Federal Labor Standards Legislation, Subcommittee on the Family and Medical Leave Act Publication (Contributing Author), (March 2015)
- *Texas Human Resources Manual Guide to Texas and Federal Employment Laws and Regulations for 2014*, American Chamber of Commerce Resources, LLC Publication (Co-Author), (May 2014)
- *Employment Law Update (White Paper)*, Ogletree Deakins Publication (Co-Author), (March 2014)
- *2014 Midwinter Meeting Report of 2013 FMLA Cases*, ABA Section of Labor and Employment Law, Committee on Federal Labor Standards Legislation, Subcommittee on the Family and Medical Leave Act Publication (Contributing Author), (March 2014)

Practices, Industries & Services

Labor & Employment

Memberships

- San Antonio Bar Association
- San Antonio Young Lawyers Association
- Texas Young Lawyers Association
- American Bar Association (Labor and Employment Law section)
- Catholic Charities of San Antonio
- San Antonio Manufacturers Association
- San Antonio Hotel and Lodging Association
- Rotary Club of San Antonio – Co-Chair, New Member Announcement Committee
- Phi Delta Phi