

David W. Erb

Partner

Baltimore

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Email



Service Focus

- Employee Defection and Trade Secrets
- Litigation and Trials

Industry Focus

- Financial Services

Overview

David Erb is a partner in the firm's Baltimore office and is a founding member of the firm's Employee Defection and Trade Secrets Practice Group. David counsels and represents employers in a diverse range of employment law matters from individual employment discrimination, retaliation, defamation (including securities industry Form U-5 defamation cases) and wrongful discharge actions to claims of employee raiding and recruiting teams of critical employees by competitors to claims of misappropriation of highly sensitive trade secrets and confidential information. David's practice breaks out into four primary segments:

1. Employee Recruitment/Defection/Trade Secrets Litigation: David has a national practice helping employers both navigate and litigate the complex issues surrounding en masse defections, hiring multiple and highly compensated individual employees from a competitor, and employee movement precipitated by mergers and acquisitions. David has litigated cases in courts and arbitral forums in over 25 states and the District of Columbia and has been involved in hundreds of matters concerning claims of misappropriation of trade secrets and confidential information, employee raiding, and breaches of restrictive covenants, including non-competition, customer non-solicitation and confidentiality agreements. Many of the litigation matters involve rapid deployment of resources throughout the United States to seek or defend against temporary restraining orders, emergency injunctive orders and other relief.

2. Strategic Planning and Counseling on Employee Transitions and Protection of Critical Business

Assets: David counsels clients on the multi-faceted aspects of strategic recruiting, protection of critical business information and resources, and the development of key producer transition programs. This includes a wide range of projects, such as:

- providing employers with detailed strategic risk assessment and formulation of plans to minimize legal exposure while preserving critical expansion and hiring opportunities;
- developing and drafting key executive retirement and book-of-business transfer contracts;
- creating team agreements for both co-equal or senior-junior level producer partnerships;
- drafting and implementing non-compete, non-solicitation and confidentiality agreements; and
- advising employers on how to protect their trade secrets in order to grow and protect the company's assets and client base.

David has provided risk assessment, planning advice and counseling in relation to employee transitions and business protection throughout the United States.

3. Defending Employers against Claims of Discrimination, Retaliation, Harassment and Wrongful

Termination: David defends employers against charges of discrimination based on race, gender, age, disability, national origin and religion in actions before the Equal Employment Opportunity Commission (EEOC), the Maryland Commission on Civil Rights and other state and local investigative agencies, as well as in the state and federal courts. He also defends employers against wage and hour claims, wrongful discharge and post-employment defamation claims, including Financial Industry Regulatory Authority (FINRA, previously the NASD) arbitration claims for securities industry Form U-5 defamation.

4. Defending Employers and their Employees in Regulatory Investigations: David represents and advises both employers and employees in regulatory investigations by the Securities and Exchange Commission (SEC), the FINRA, state securities and insurance commissions and the Certified Financial Planner (CFP) Board.

David has represented clients in numerous industries, including all aspects of the financial services industry (major broker-dealers, institutional traders, trading desks, investment bankers, wealth managers, registered investment advisory firms, banks, private banking and insurance companies), publishing, construction, automotive sales, high-tech industries (information technology, data storage and software development, medical devices), medical and dental practices, compounding pharmacies, warehousing and distribution, beverage distributors, hazardous materials trucking, auction houses, high-end retailers, food services, restaurants and others.

David is "AV" Preeminent Peer Review Rated by Martindale-Hubbell. In addition, David is a co-leader of the Fisher Phillips Financial Services Recruitment Litigation Conference, a participatory conference focusing on issues relevant to restrictive covenant and related litigation among broker-

dealers, private wealth management firms, Registered Investment Advisors (RIA), private banks and insurance carrier distribution networks and agencies. David has hosted and moderated this quasi-annual conference since 2003.

Credentials

Education

- J.D., 1988, cum laude, University of Wisconsin Law School
- B.A., 1985, American University

Bar Admissions

- Maryland

Court Admissions

- U.S. Court of Appeals for the Fourth Circuit
- U.S. District Court for the District of Maryland
- U.S. District Court for the Eastern District of Michigan
- U.S. District Court for the Western District of Michigan

Recognitions

- *Chambers USA*, Labor & Employment (2022-2024)

Affiliations

Professional Activities

- Adjunct Professor of Law, Legal Writing and Moot Court, University of Baltimore School of Law (1993-1995; 1997-2000)
- Law Clerk to Judge William H. Adkins II, Court of Appeals of Maryland (1988-1989)
- Member, American Bar Association: Labor & Employment and Litigation Sections
- Member, Maryland Bar Association: Labor & Employment and Litigation Sections

Insights

NEWS

06/10/24

Fisher Phillips Earns Top Rankings Again as a Leading Firm in Labor and Employment Law by Chambers USA

Edwin G. Foulke Jr., Andrew J. Sommer, Travis Vance, Kristin R.B. White, Danielle Hultenius Moore, Jocelyn Campanaro, Micah Dawson, Todd A. Fredrickson, Angelica M. Ochoa, Steven M. Bernstein, Suzanne K. Bogdan, Charles S. Caulkins, Christine E.

Howard, Jeffrey E. Mandel, Cathy M. Stutin, Michael P. Elkon, Shanon R. Stevenson, Terri R. Stewart, Laurel K. Cornell, Raymond

C. Haley III, Emily N. Litzinger, Todd B. Logsdon, Craig P. Siegenthaler, Megan Reese U'Sellis, Michelle I. Anderson, Edward F. Harold, Timothy H. Scott, David W. Erb, Daniel E. Farrington, Joseph W. Ambash, William E. Altman, Gregory V. Murray, Barbara Jean D'Aquila, Steven R. Cupp, Gregory D. Ballew, J. Randall Coffey, James R. Holland II, Brian J. Finucane, Melody L. Rayl, David B. Dornak, Scott M. Mahoney, Mark J. Ricciardi, Kathleen McLeod Caminiti, Rosemary S. Gousman, Michael R. Marra, David Klass, Richard A. Millisor, Clarence M. Belnavis, Todd A. Lyon, Michael P. Avila, Nan Sato, Christopher P. Stief, William D. Wright, Michael D. Carrouth, C. F. W. Manning II, Stephen C. Mitchell, J. Hagood Tighe, David S. Jones, Greg Grisham, Jeff Weintraub, Stephen J. Roppolo, Teresa Valderrama, Theresa M. Connolly, Davis C. Bae, Ralph Hua, Radhika Mehta, Suzanne Kelly Michael

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NEWS

06/06/23

Fisher Phillips Once Again Recognized as a Top Labor and Employment Law Firm by Chambers USA

Edwin G. Foulke Jr., Andrew J. Sommer, Travis Vance, Kristin R.B. White, Danielle Hultenius Moore, Jocelyn Campanaro, Micah Dawson, Todd A. Fredrickson, Angelica M. Ochoa, Steven M. Bernstein, Suzanne K. Bogdan, Charles S. Caulkins, Christine E. Howard, Jeffrey E. Mandel, Cathy M. Stutin, Shanon R. Stevenson, Laurel K. Cornell, Raymond C. Haley III, Emily N. Litzinger, Todd B. Logsdon, Craig P. Siegenthaler, Megan Reese U'Sellis, Michelle I. Anderson, Edward F. Harold, Timothy H. Scott, David W. Erb, Daniel E. Farrington, Joseph W. Ambash, William E. Altman, Gregory V. Murray, Steven R. Cupp, Gregory D. Ballew, J. Randall Coffey, James R. Holland II, Brian J. Finucane, David B. Dornak, Scott M. Mahoney, Mark J. Ricciardi, Kathleen McLeod Caminiti, Rosemary S. Gousman, Michael R. Marra, Richard A. Millisor, Clarence M. Belnavis, Todd A. Lyon, Nan Sato, Christopher P. Stief, William D. Wright, Michael D. Carrouth, C. F. W. Manning II, Stephen C. Mitchell, J. Hagood Tighe, David S. Jones, Jeff Weintraub, Arthur V. Lambert, Stephen J. Roppolo, Teresa Valderrama, Theresa M. Connolly, Davis C. Bae, Ralph Hua, Radhika Mehta, Suzanne Kelly Michael, Barbara Jean D'Aquila

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INSIGHTS

10/31/22

FP's Workplace Law Forecast 2023

Davis C. Bae, Phillip C. Bauknight, Cheryl L. Behymer, Steven M. Bernstein, Sheldon J. Blumling, Risa B. Boerner, Suzanne K. Bogdan, Kathleen McLeod Caminiti, Laurel K. Cornell, Myra K. Creighton, Jennifer B. Carroll, Michael P. Elkon, David W. Erb, Ilanit Fischler, Jason A. Geller, Rosemary S. Gousman, Susan M. Guerette, Usama Kahf, David R. Kresser, Emily N. Litzinger, Todd B. Logsdon, Todd A. Lyon, Jennifer Mendez, Richard R. Meneghello, Richard A. Millisor, Stephen C. Mitchell, Joshua D. Nadreau, Raymond W. Perez, Cheryl Pinarchick, John M. Polson, Todd B. Scherwin, Evan Shenkman, Adam F. Sloustcher, Kristin L. Smith, Shanon R. Stevenson, J. Hagood Tighe, A. Kevin Troutman, Travis Vance, Sheila M. Abron, Megan C. Winter, Colette F. Wolf, Robert Yonowitz

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NEWS

06/01/22

Fisher Phillips Recognized Again as a Top Labor and Employment Law Firm by Chambers USA

Kristin R.B. White, Danielle Hultenius Moore, Jocelyn Campanaro, Micah Dawson, Todd A. Fredrickson, Angelica M. Ochoa, Steven M. Bernstein, Suzanne K. Bogdan, Charles S. Caulkins, Christine E. Howard, Jeffrey E. Mandel, Cathy M. Stutin, Shanon R.

Stevenson, Laurel K. Cornell, Raymond C. Haley III, Todd B. Logsdon, Craig P. Siegenthaler, Megan Reese U'Sellis, Michelle I. Anderson, Edward F. Harold, Timothy H. Scott, David W. Erb, Daniel E. Farrington, Joseph W. Ambash, William E. Altman, Gregory V. Murray, Steven R. Cupp, J. Randall Coffey, Brian J. Finucane, David B. Dornak, Scott M. Mahoney, Mark J. Ricciardi, Rosemary S. Gousman, Michael R. Marra, Richard A. Millisor, Clarence M. Belnavis, Nan Sato, Christopher P. Stief, William D. Wright, Michael D. Carrouth, C. F. W. Manning II, Stephen C. Mitchell, J. Hagood Tighe, David S. Jones, Jeff Weintraub, Arthur V. Lambert, Stephen J. Roppolo, Teresa Valderrama, Theresa M. Connolly, Davis C. Bae, Ralph Hua, Radhika Mehta, Suzanne Kelly Michael

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INSIGHTS

03/15/22

FP Forecast: March 2022 Edition

Steven M. Bernstein, Risa B. Boerner, David W. Erb, Rosemary S. Gousman, Michael R. Greco, Todd A. Lyon, Robert Yonowitz

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EVENT

9/23/21 and 9/28/21

“New Normal” Approaches to Employee Mobility, Information Safeguards and Competitive Advantage in the Post-Pandemic World

Michael P. Elkon, Risa B. Boerner, Christopher P. Stief, David W. Erb, Robert Yonowitz, Brent A. Cossrow, Wendy Hughes, James Michael Honeycutt, Pavneet Singh Uppal, Michael R. Greco, Susan M. Guerette, Usama Kahf, Anthony Isola, John W. Stapleton, Corey J. Goerd

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PUBLICATION

01/03/20

Employers Get Ready: Your Investment Workforce Will Be Fiduciaries in 2020

David W. Erb, Michael R. Greco

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PUBLICATION

09/20/19

Financial Services Co-Chairs Provide Tips for Hiring from a Competitor

Jeffrey M. Csercsevits, David W. Erb, Rosemary S. Gousman

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NEWS

05/09/19

Fisher Phillips Announces Practice Group and Industry Leaders Amid Record Growth

Davis C. Bae, Steven M. Bernstein, Sheldon J. Blumling, Laurel K. Cornell, David W. Erb, Todd Alan Ewan, Rosemary S. Gousman, Christopher C. Hoffman, David R. Kresser, Karl R. Lindegren, Todd B. Logsdon, Todd A. Lyon, Suzanne Kelly Michael, Stephen C. Mitchell, Kristen J. Nesbit, Alden J. Parker, Andria Lure Ryan, Matthew R. Simpson, Shanon R. Stevenson, Christopher P. Stief, A. Kevin Troutman, Travis Vance, Robert Yonowitz

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PUBLICATION

04/12/19

Examining the Impact of the #MeToo Movement on Workplace Policies for Credit Unions

David W. Erb, Rosemary S. Gousman

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