



Jonathan R. Cavalier

Member

Philadelphia

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Jonathan R. Cavalier's practice is focused on ERISA class action and single plaintiff litigation, prosecuting and defending actions involving noncompetition agreements, restrictive covenants and trade secrets, and defending employers from claims of discrimination in state and federal court. Jon also has extensive experience resolving electronic discovery disputes and advising clients on how to best prepare their systems for e-discovery before litigation arises.

Jon has substantial trial experience, including experience as first-chair jury trial counsel. He has also had significant involvement in several jury and bench trials in state and federal court and in arbitrations, including experience as lead counsel in both settings.

Jon was recently named a "BTI Client Service All-Star" - one of only 49 labor and employment lawyers featured on this prestigious, national list. The "All-Star" designation is based on candid feedback from corporate counsel at nearly 300 Fortune 1000 companies, and recognizes lawyers who demonstrate superior client focus, have an exceptional ability to understand their client's business, consistently exceed clients' expectations, possess excellent legal skills and depth of knowledge, and deliver outstanding results.

Jon earned his undergraduate degree from St. Joseph's University. He holds an M.B.A. from Temple University's Fox School of Business. As a result, he is especially suited to understand his clients' needs from a business perspective, and to find solutions for clients that are both fiscally and legally sound. At the Fox School, Jon was the recipient of the Benjamin L. Winderman Award for attaining the highest cumulative GPA in the joint J.D./M.B.A. program. Jon graduated *cum laude* from Temple University Beasley School of Law, where he was a member of the Moot Court Honor Society, served as a teaching assistant for legal research and writing, and co-founded the business law society.

Experience

Represented a closely held company and its shareholder against claims brought by a former minority shareholder. The former minority shareholder claimed that he had been oppressed, that he had the license to manufacture 80% of the company's products, that the company should be shut down, and that the company should have to pay millions of dollars to buy out his stock. Cozen O'Connor defeated the former minority shareholder's request for an injunction and secured an injunction prohibiting the former minority shareholder from competing. The firm also had the former minority shareholder held in contempt, and was later able to convince an arbitrator to reject the former minority shareholder's claim as to the value of the company.

Represented Hewlett-Packard in a high-profile case against Kodak in which we won several hard-fought e-discovery battles and defeated a preliminary injunction petition.

Served as employment counsel to a Fortune 1000 industrial services corporation. Provided advice and counsel to client regarding the modernization and addition of a broad array of employment policies and practices, including the issuance of a comprehensive new employee handbook. Successfully defended the client against charges of sex, race, age and disability discrimination. Counseled the client on union avoidance issues, and defended the client against charges brought under the National Labor Relations

Practice Areas

- Employee Benefits & Executive Compensation
- Labor & Employment
- Litigation

Education

- Temple University—James E. Beasley School of Law, J.D., *cum laude*, 2007
- Temple University, M.B.A., 2007
- St. Joseph's University, B.A., 2002

Bar Admissions

- Pennsylvania

Court Admissions

- U.S. Court of Appeals for the Third Circuit
- U.S. District Court -- Eastern District of Pennsylvania

Awards & Honors

- The BTI Client Service All-Star Team
- Pennsylvania Super Lawyer "Rising Star," 2014-2019

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Act.

Successfully represented a large sports management and marketing company in a trade secrets lawsuit brought against a former employee who, prior to leaving to join a competing company, downloaded and misappropriated confidential and proprietary information. Obtained a temporary restraining order and preliminary injunction against the former employee which barred him from working for the competitor until all confidential information was retrieved and recovered from his possession.

Successfully defended a large, privately owned real estate company in a restrictive covenant / non-compete case brought by a competing real estate company.

Successfully represented a chemical company in a lawsuit against a former high-level executive employee who left to join a competing firm in violation of a noncompete agreement.

Served as employment counsel to a large children's charity, providing advice on a wide range of employment issues. Successfully defended client from discrimination claims brought by former employees.

Represented employers and large insurance companies on multiple occasions in defense of ERISA denial-of-benefits and breach of fiduciary duty claims. Also represented employers in defense of ERISA class-action claims for pension benefits.

Successfully defended food services company in restrictive covenant and trade secret misappropriation lawsuit brought by a competing company. The lawsuit, which alleged both contractual violations and fraud, was dismissed and the plaintiff was ordered to pay the client's attorney's fees and costs.

Represented a large chemical company in a successful Third Circuit appeal concerning the applicability of an arbitration provision in a collective bargaining agreement to individual claims under ERISA for disability benefits.

Obtained a federal court order, which was affirmed on appeal to the U.S. Court of Appeals for the Seventh Circuit, vacating a labor arbitration award entered against our higher education client in a dispute centering on whether full-time staff who also teach (FTST) could be included in a bargaining unit represented by the Part-time Faculty Association Union. Our client took the position that FTST were included, while the union contended that they were not. The dispute played out both before the NLRB, where the Regional Director sided with our client, and then before an arbitrator, who sided with the union. In vacating the award, the court agreed with our arguments that the award infringed on the NLRB's primary jurisdiction to decide representational issues, was *ultra vires* in that the arbitrator exceeded the scope of the issues before him, and violated public policy by forcing our client to choose which of two conflicting decisions to obey.

Won summary judgment on behalf of a provider of mental health services whose former employee claimed retaliation in violation of the Pennsylvania Whistleblower Law, plus defamation. Our successful motion centered on arguments that the plaintiff's whistleblower claim failed for lack of proof of causation, and her defamation claim failed because the alleged statements at issue were conditionally privileged and the plaintiff could not prove special harm. We successfully defended the client on the plaintiff's appeal, which was deemed untimely filed, and against the plaintiff's subsequent petition for permission to file a second appeal nunc pro tunc.

Successfully defended a retail company in two federal jury trials centering on allegations that the company misclassified all of its assistant store managers as exempt from overtime under the Fair Labor Standards Act. The plaintiffs had sued the company, which owns and operates a chain of more than 100

retail stores, under the FLSA and corresponding state law in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. After twice preventing the plaintiffs from securing a jury verdict in their favor in federal court, we reached a favorable global settlement at a fraction of the amount of the plaintiffs' pre-trial demand.

Defeated an effort by the International Brotherhood of Teamsters Local 773 to organize a unit of regular full-time and part-time employees of a company providing custom iron and steel products. After a vigorous campaign, the election resulted in a 45-25 victory for the employer, rendering moot 16 ballots that the union challenged.

Won summary judgment, which was affirmed by the U.S. Court of Appeals for the Third Circuit, on behalf of an employee health plan operated by a health system in an ERISA case involving the recovery of a substantial overpayment to an out of network health care provider by the plan on behalf of a plan beneficiary. The court's opinion clarifies ambiguities in recent Supreme Court cases governing recoveries by ERISA plans based on equitable liens by agreement. The court found that our client's claims were equitable rather than legal and thus permitted by ERISA, and awarded the plan an equitable lien by agreement based on a provision of the Plan requiring the return of overpayments made in error. The plaintiff was ordered to repay our client the substantial overpayments. Additionally, we won summary judgment on the provider's ERISA claims against our client, through which the provider sought \$1.2 million in reimbursement based on its full billed charges.

Obtained a complete victory, after a three-week bench trial in federal court, on behalf of a major chemical manufacturer in a retaliation case brought by a former employee. The trial victory capped more than 15 years of litigation involving multiple lawsuits filed by the former employee. The matter that was tried centered on whether certain litigation decisions in an underlying case were retaliatory, and also presented complicated legal issues that had a dramatic effect on the damages that could be sought at trial. We filed a number of pre-trial motions on these issues seeking to limit damages, and won all of them, with the net results of removing \$69 million of the claimed \$70.5 million in damages and significantly limiting the scope of the trial. This victory was affirmed on appeal to the U.S. Court of Appeals for the Third Circuit.