



## Stephen A. DiTullio Attorney

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Madison

Businesses face an array of federal and state employment laws and regulations that they must comply with in the workplace. Unfortunately, it is a fact of business life that some current employees or former employees will commence employment litigation. Whether it is providing proactive advice on employment law compliance issues or defending businesses in litigation, Steve has successfully worked with businesses throughout the country to help guide them through the many legal issues that arise in the workplace. Clients enjoy the high level of responsiveness and competence that Steve brings to their businesses. He prides himself on the proactive compliance advice which often helps to avoid claims by disgruntled employees. His proactive advice can also assist clients in providing successful defenses for businesses in litigation.

In particular, he is well versed in the trucking industry and understands all issues related to the Department of Transportation (DOT) and the Federal Motor Carrier Safety Administration (FMCSA). He has handled matters for his clients in this arena ranging from discrimination and harassment to insurance and bad faith claims. He also has a unique understanding of the Surface Transportation Assistance Act (STAA) administered and enforced by OSHA, which addresses issues related to whistle blowing and retaliation.

Steve has been the lead attorney in a case that has been closely watched nationally, EEOC v. Flambeau Corp., which was recently decided in favor of the employer by the Western District of Wisconsin. The case held that Flambeau's testing component of its wellness plan fell within the safe harbor exception of the Americans with Disabilities Act. This decision has important consequences for employers throughout the nation and provides a roadmap for wellness plan compliance for employers. It has recently been reported in the New York Times.

Another area of Steve's practice focuses on the factors to be considered in determining whether an independent contractor or employer-employee relationship exists under Wisconsin Unemployment

Compensation statutes, Worker's Compensation statutes, the Internal Revenue Service Code, and other employment-related statutes. Companies need to be aware of each of these tests because failure to comply with the respective tests could result in a penalty and/or interest assessment if an individual is mischaracterized as an independent contractor rather than an employee.

Steve has also developed a thorough knowledge of HUB Zone regulations for purposes of federal contracting. His experience in this area has been used to assist businesses in understanding the details of this important federal program to help ensure them of compliance for purposes of qualifying for federal contracting.

## Clients

Steve's clients range from small businesses and non-profit associations to mid-sized companies and publicly traded corporations. His range of clients includes trucking companies, manufacturers, bovine artificial insemination companies, and veterinary practices.

## Client Recommendations

"Steve and his staff have always been most helpful in providing information and advice about employee documentation, subcontract agreements, business contracts, employment issues and corporate legal counsel. Running a business in a specialized field, we found that he has a broad range of resources that have been useful to us." - *Scott Roeming, General Manager, The Geo Group Corporation, [www.thegeogroup.com](http://www.thegeogroup.com). Read the recommendation letter here.*

"Steve has always been very readily available to ABC, which is a huge plus and rare to find in other law firms. He is an exceptional lawyer who is in the "upper echelon of employment lawyers" and is a fierce advocate for his clients. Steve is a lawyer that will think in the box, out of the box, on the box, under the box, tear apart and make a fire out of the box, whatever, to meet the clients' legal needs.

He is bright, analytical, well ordered, and is capable of seeing both sides of an issue. Steve has always taken in all relative data available, and then formed a legal opinion based on logic, what is true and provable." - *Jackie Back, President, American Business Corporation, [www.abcworks.net](http://www.abcworks.net).*

"It's been over 16 years that we have been a client of Dewitt Ross & Stevens. Over those years Steve has been instrumental in guiding us through the many legal mazes that exist in business. From minor employee issues to significant litigation, he has always been the first and only call I need to make. Beyond his individual talents, Steve has surrounded himself with a team that knows how to win." - *Scott P. Seljan, President, Seljan Company, [www.seljan.com](http://www.seljan.com).*

"We have been a client of DeWitt Ross & Stevens for several years and have developed a great working relationship with Steve DiTullio. We appreciate and value Steve's expertise, guidance, and responsiveness on all of our employment legal matters. Steve's understanding of our business and the way we operate our company enables us to have efficient and productive discussions with him. We are very pleased with the legal work Steve has done for us and it is comforting to know he is always available to support our needs." - *Ron Holub, CEO, Flexion Inc., [flexion.us](http://flexion.us)*

"We have had the pleasure of working with Stephen DiTullio on employment law issues for many years. He has earned our respect by consistently providing us with information and guidance that

ensure smooth navigation through sometimes tricky situations. He continually maintains a balance between the needs of the company and the importance of employment law compliance. We would recommend Steve without hesitation.” - *Peggy Holley, Director of Human Resources, Fristam Pumps, www.fristam.com*

“My wife and I were impressed at the level of knowledge, preparation and professionalism displayed during our recent employment related hearing. We found it refreshing to work with a legal representative that understands the challenges of business, especially small business. We just cannot say enough about your approach and reassurance that the claims against us were unfounded. When you own a small business and treat everyone as family it hurts to have someone question your integrity and make false claims against you...we listened and heard you loud and clear that it is better to spend the money at the beginning of an employment relationship than at the end when termination seems like the only option.” - *Kenneth L. Heins, CEO/President, KLH Industries Inc., www.klhindustries.com*

“I have been working with Steve for the past three years. If we have any personnel issues, my first communication is to Steve. His knowledge, experience, and professionalism is a valuable resource for our company.” - *Joel Groskreutz, President & CEO, Accelerated Genetics, www.accelgen.com*

## Notable Representations

- *Equal Employment Opportunity Commission (“EEOC”) v. Flambeau, Inc., Case No. 14-cv-638 (W.D. Wis. 2015)* (obtained summary judgment for employer on the EEOC’s claim that the employer’s wellness plan violated the ADA)

Steve has successfully prevailed on behalf of businesses securing dismissal on claims involving:

- sexual harassment
- racial discrimination
- disability discrimination
- FMLA compliance
- STAA Surface Transport Assistance Act
- independent contractor classification
- wage and hour claims

He also provides helpful counseling regarding:

- discipline
- terminations
- employee handbooks
- wage and hour compliance
- manager training

- hiring
- background checks
- other workplace employment law issues

## Expertise

- International Law
- Labor & Employment Relations
- Lexwork
- Litigation
- Professional Ethics/Discipline
- Trials in State & Federal Courts
- Transportation & Logistics Industry

## Honors

- *Best Lawyers*® - 2016 Lawyer of the Year - Employment Law | Management
- “Top Lawyer” – *Madison Magazine*
- Wisconsin Super Lawyer
- *Best Lawyers*® - Best Lawyers in America (Commercial Litigation, Employment Law, Labor Law) - Since 2007

## Education

- J.D., University of Wisconsin Law School
- M.A., Syracuse University
- B.A., Northeastern University of Massachusetts

## Admissions

- State Bar of Illinois
- State Bar of Wisconsin
- U.S. District Courts for the Eastern and Western Districts of Wisconsin
- U.S. Supreme Court

## Affiliations

- American Bar Association
- Dane County Bar Association
- Executive Committee Member – DeWitt
- Former Managing Partner – DeWitt
- State Bar of Wisconsin Labor & Employment Law Sections

## Articles & Presentations

- “Class Action Waivers Approved in Pro-Employer *Epic Systems Corp.* Decision, But Don’t Implement or Change Your Arbitration Agreement Just Yet,” Employment Law Blog, June 11, 2018
- “Employers Beware of Unpaid Internship Programs,” Employment Law Blog, March 2016
- “OSHA Inspections and Dairy Farmers – Know Your Rights!,” webinar
- ABA’s treatise on the FLSA, the Wisconsin State Bar’s Discovery Law and Practice
- Frequent contributor to the HR Advantage, DeWitt Ross & Stevens
- IRS Form 1099 Reporting: What You Need to Know