

Be well advised.®



Jeffrey W. Pagano
Partner

631-727-2180 Ext. 205
jpagano@suffolklaw.com

Jeffrey W. Pagano is a partner with the firm's Labor & Employment Group. He focuses on all forms of corporate operating design, litigation and negotiation, primarily in the area of labor and employment law, arising under the NLRA, RLA, Jones Act, Title VII of the 1964 Civil Rights Act, ADEA, FLSA, SCA, ERISA, E.O. 11246, Rehabilitation Act, VEVRAA, OSHA, ADA, FMLA, SCA, FCRA, FCA, as well as the numerous statutory schemes impacting the workplace throughout the U.S. Additionally, he continues to litigate significant complex commercial matters arising out of the purchase and sale of business organizations, intellectual property, and contractual disputes in courts throughout the U.S. or in arbitration. His experience and knowledge is deep, having had the opportunity over a 30-year period to strategically build, restructure and/or rebuild organizations, whether they are unionized or union-free, in order to create value. In doing so, he deals with the complexity of simultaneously achieving internal change, while managing the risk of external liability and minimizing the cost of implementation.

OVERVIEW

Mr. Pagano has experience in many industries, including all forms of transportation (armored, OTR, shipping, aircraft), manufacturing, financial, automotive, steel, retail and consumer products, hospitality, health care, and a myriad of other service industries. He approaches each assignment as unique, requiring independent and creative thinking, regardless of the "norm," in order to achieve a client's objectives.

Mr. Pagano has been involved in hundreds of union organizing campaigns on behalf of management. He also has extensive experience before the NLRB, in collective bargaining, as well as the ongoing administration of the employment relationship, including arbitration. Mr. Pagano has also developed workplace policies and procedures that produce effective internal workplace dispute mechanisms designed to avoid external liability. These

Practice Areas

Employment & Labor
Counseling & Litigation

Education

College of Europe (Bruges)

Ohio University, B.S.,
cum laude

Rutgers School of Law, J.D.

Professional and Civic Associations

Admitted to practice:

New York, New Jersey and
District of Columbia bars

U.S. Supreme Court,
U.S. Court of Appeals,
Second, Third, Fourth, Fifth,
Sixth, Ninth and Eleventh,
D.C. Circuits

U.S. District Court, District
of New Jersey

U.S. District Court, District
of Columbia

U.S. District Court,
Southern, Eastern and
Northern Districts of
New York

U.S. District Court, Eastern
District of Michigan

U.S. District Court, Eastern
District of Wisconsin

Jeffrey W. Pagano, Partner

practices enhance management's operational and leadership credibility, while reducing the risk of unionization, discrimination claims, whistleblower claims and wage-hour claims (collective, class, and individual), which lowers the potential legal spend in the process. In this regard, once a client has followed the program designed by Mr. Pagano, whether in relation to an organizing campaign, wage-hour and other compliance processes or any workplace system, should litigation arise, he can utilize alternative fee arrangements to reduce the legal spend and "partner" with the client toward the resolution of any dispute arising as a consequence. Mr. Pagano's client relationships are typically longstanding because he actually invests in the relationship at many levels.

CLASS AND COLLECTIVE ACTIONS

Mr. Pagano routinely defends employers facing class and/or collective action wage-hour claims throughout the U.S., whether arising under federal or state law. He has managed the entire wage-hour defense process in approximately 15 class and/or collective actions, encompassing claims of minimum wages, tip credit, overtime, off the clock, on-call payments, uniform maintenance, meal and rest periods, protective devices, exempt status, itemized payroll documents, waiting time, fraudulent misrepresentation, breach of contract, and independent contractor status. Typically, he has been able to either achieve a dismissal of claims or a settlement.

Mr. Pagano uses his years of litigation experience to design operational practices which eliminate wage-hour claims, as well as diminish the likelihood of class certification and potential liability. He has been called upon to structure internal and external employment and operating policies and procedures that minimize non-compliance with applicable interstate and intrastate wage-hour statutory schemes, from hours of service obligations of OTR teams, to electronic messaging to tip credits, as well as designing Web-based local on-time delivery systems, which ensure the continued preservation of independent contractor status.

LABOR MANAGEMENT RELATIONS

Mr. Pagano has extensive experience in negotiating with and litigating against the most sophisticated labor unions in the country, including the International Brotherhood of Teamsters (IBT), American Postal Workers Union (APWU), Service Employees International Union (SEIU), the International Longshoremen's Union (ILA), the International Association of Machinists and Aerospace Workers (IAM), United Steelworkers (USW), United Food and Commercial Workers (UFCW), International Brotherhood of Electrical Workers (IBEW) and numerous labor organizations pursuant to 9(b)(3). When acting either as lead negotiator or strategic advisor, he has successfully managed contentious collective bargaining negotiations through impasse and implementation of final offer without any adverse findings by any regulatory authority.

Jeffrey W. Pagano, Partner

SPECIFIC LABOR MANAGEMENT RELATION PROJECTS

- Operationally restructured a nationwide market leader in the secure transportation industry through the creative and aggressive use of legal tactics and operational strategies, prevailing in hundreds of proceedings before the NLRB and in various federal courts. As a consequence, the historical collective bargaining representatives were eliminated without any business interruption, and the historical culture and operational methodology of the business operations was replaced, thereby increasing operating and asset values for investors. Not one proceeding before any regulatory authority or court, including before the NLRB, EEOC, and DOL, resulted in an adverse outcome.
- Structured the acquisition and merger strategy of the largest domestic non-union heavyweight freight forwarder requiring the integration of an organized employer, resulting in a non-union merged enterprise, thereby increasing the operating and asset value of the transaction without any business interruption. Not one proceeding before any regulatory authority or court, including before the NLRB, EEOC, and DOL, resulted in an adverse outcome.
- Structured the acquisition and labor strategy of the largest domestic heavyweight cargo freight forwarder of a domestic heavyweight air cargo carrier, which was leveraging the forwarder during peak demand to be acquired, as the carrier's pilots had recently voted for labor organization representation in a proceeding before the NMB. After finalizing the transaction, he designed the operating structure of the transaction to enhance the application of the NLRA to protect the freight forwarder and its non-union NLRA workforce, while acting as lead negotiator to successfully negotiate the pilots' collective bargaining agreement under the RLA, which contained groundbreaking productivity, operational flexibility and scope provisions, including scheduling, compensation and dispute resolution, that enhanced the operating success and asset value of the overall enterprise. Not one proceeding before any regulatory authority or court, including before the NLRB, NMB, EEOC, and DOL, resulted in an adverse outcome.
- Restructured an operating strategy for the largest over-the-road mail carrier following a series of acquisitions and, as lead negotiator, created and executed a national bargaining strategy to change historic collective bargaining relationships and operating culture, implicating simultaneous Service Contract Act and NLRA adherence. He successfully negotiated pattern-making collective bargaining agreements, which improved the carrier's competitive position for future government contracts. Not one proceeding before any regulatory authority or court, including before the NLRB, EEOC, and DOL, resulted in an adverse outcome.

Jeffrey W. Pagano, Partner

- Structured an acquisition labor strategy and methodology of two EU freight forwarders in the U.S., which included the integration of the business and revenue of the acquired U.S. freight forward operations, while eliminating collective bargaining relationships as lead negotiator throughout the implementation of the collective bargaining strategy. Not one proceeding before any regulatory authority, including the NLRB, EEOC, and DOL, resulted in an adverse outcome.
- Created a collective bargaining strategy for an entire industry in the U.S., which successfully leveraged fundamental operating and economic change throughout the East Coast, for domestic participants in the ocean transportation industry implicating numerous regulators, including the DOJ, NLRB, EEOC, and DOL.
- Created and executed a collective bargaining strategy as lead negotiator for the hospitality industry, involving the certain work central to the industry covered by the collective bargaining agreement. He was able to convert the internal workplace into a real estate transaction on behalf of a third party, allowing for the outsourcing of the work historically performed on the premises. Not one proceeding before any regulatory authority resulted in an adverse outcome.
- Created and executed a labor/litigation strategy within the energy and construction industry implicating the NLRA and the RLA, which was designed to manage and appropriately deploy 8(f) collective bargaining agreements at various locations throughout the U.S. Not one proceeding before any regulatory authority resulted in an adverse outcome.
- Designed the structural elements of Web-based “last mile” transportation providers and brokers to ensure independent contractor status to avoid wage-hour liability and litigation.
- Negotiated, implemented and monitored various multi-union PLAs on behalf of investor and construction enterprises within the solar energy and construction industries.

INTELLECTUAL PROPERTY/COMMERCIAL LITIGATION

Mr. Pagano has also devised policies, procedures, and agreements, as well as structure business transactions to protect intellectual property from theft or misuse by incoming or outgoing employees and failed business arrangements. He has successfully commenced litigation designed to thwart the theft and/or misuse of intellectual property by former employees and/or competitors. He routinely litigates commercial disputes arising in the construction, transportation and live event industries.

Jeffrey W. Pagano, Partner

INTERNATIONAL

Mr. Pagano's employment practice is not limited to the United States. He has evaluated and structured organizations in foreign jurisdictions, while remaining sensitive to local practices and cultures. Additionally, employment litigation can arise among jurisdictions, depending upon a definition of an employer within each jurisdiction, which has prompted Mr. Pagano to be responsible for simultaneous employment issues and disputes in numerous countries. In addition to his employment practice, Mr. Pagano has extensive experience representing multinational clients in the international air freight, logistics and transportation industries relating to regulations, customs matters, and trademark protection, as well as structuring agreements for the transportation of international cargo, litigation of pricing issues under multilateral treaties affecting international cargo and mail, and litigation of international mail and cargo matters, including intellectual property claims arising under the Lanham Act.

Mr. Pagano is Contributing Editor of *Developing Labor Law* and a lecturer for the American Management Association and the Institute for Applied Management and Law, Inc. He served as counsel to the general counsel of the National Labor Relations Board, Region 9, Cincinnati, Ohio. Mr. Pagano has participated in various speaking forums, including the National Policy Conference, sponsored by the National Mediation Board, concerning the globalization of collective bargaining under the RLA in the airline industry, the National Armored Car Association, and the Independent Armored Car Association. He has also testified before Congress.