DeWitt LLP Law Firm



Scott M. Paler

Partner

Madison, Wisconsin

608-252-9213

sxp@dewittllp.com

Service Areas:

- Background Screening
- Labor & Employment Relations
- Litigation

Education:

- J.D., *cum laude,* University of Wisconsin Law School
- B.A., *with distinction*, University of Wisconsin, Phi Beta Kappa

Admissions:

- Illinois
- Wisconsin
- U.S. District Court for the Eastern and Western Districts of Wisconsin
- U.S. District Court for the Northern District of Illinois
- U.S. District Court for the Northern District of Indiana
- U.S. Court of Appeals for the 7th Circuit

Scott Paler is a partner and attorney at DeWitt LLP. He serves as Chair of the DeWitt's Background Screening practice group and Past-Chair of the firm’s Employment Relations practice group, and also participates on the firm’s Executive Committee.

Scott has developed a niche expertise in background screening. During his career, Scott has advised more than 100 background screening companies on compliance and business issues. He has also defended multiple background screening companies in litigation. Scott previously served as Co-Chair of the Litigation Avoidance Committee for the Professional Background Screening Association (PBSA), led PBSA's Insurance Task Force, and participated in PBSA’s Best Practice Steering Committee. He is currently a member of PBSA’s Ethics Committee and regularly presents on industry trends and best practices at national background screening conferences.

In addition to working with background screening companies, Scott has assisted employers nationwide, ranging in size from Fortune 50 companies to small businesses, to create and administer sound, legally compliant background screening programs.

Apart from background screening, Scott has advised employers on a wide range of traditional employment issue such as employment applications, employee handbooks, wage practices, non-compete agreements, disciplinary investigations, and terminations. He has also represented numerous organizations—from small businesses to Fortune 500 companies—in federal court, state court, and administrative forums. Such disputes have included: discrimination, harassment, non-compete, background screening, wage, breach-of-contract, employee theft, and shareholder/partner matters.

Wisconsin Super Lawyers has repeatedly recognized Scott as a "Rising Star." In addition, in 2016, Scott was named the exclusive winner of the Client Choice award in the area of Employment and Benefits in the State of Wisconsin.

Scott has worked with organizations in a variety of industries, including: healthcare, retail, information technology, staffing, manufacturing, accounting, agriculture, background screening, transportation, insurance, construction, non-profit, and a variety of others.

Affiliations

- Professional Background Screening Association
  - Led Insurance Task Force
  - Participated in Best Practices Steering Committee
  - Participated in Ethics Committee
  - Co-Chaired Litigation Avoidance Committee
- Temple Beth El - Board Member on Temple Board
- DeWitt
  - Currently participate on Executive Committee
  - Current Chair of Background Screening Practice Group
  - Previous Chair of Employment Practice Group

Articles & Presentations

- "Time To Tango With Two "New" Service Offerings: Continuous Monitoring and Social Media Checks" – Professional Background Screening Association (PBSA) Mid-Year Legislative & Regulatory Conference, 2021
- "Yes, It's Probably Time To Reconsider Your Report Language And Structure" – Professional Background Screening Association (PBSA) Annual Conference, 2020
- "The 7 Most Important Background Screening Lawsuits In 2019 And The Fresh Insights To Be Gained" – Professional Background Screening Association (PBSA) Mid-Year Legislative & Regulatory Conference, 2020
- "Psst… Your Adverse Action Process Is Springing A Leak" – Professional Background Screening Association (PBSA) (formerly NAPBS) Webinar, 2020
- "End-User Panel: An Honest Discussion About What They Want And When" – National Association of Professional Background Screeners (NAPBS) Annual Conference, 2019
- "The Lifecycle of an Employment Relationship in Six Acts" – DeWitt Fall Employment Law Seminar, October 2018
- "Class Action Waivers Approved in Pro-Employer *Epic Systems Corp.* Decision, But Don't Implement or Change Your Arbitration Agreement Just Yet" – DeWitt Employment Law News Feed, June 11, 2018
- "Believe It or Not, the FCRA Actually Requires This" – National Association of Professional Background Screeners (NAPBS) Webinar Series, 2017
- "Investigating Employee Theft, Embezzlement, and Other Criminal Conduct in the Workplace" – MRA Employment Law Update – Federal and Wisconsin, 2017
- "Not Sure Where to Start on Legal Compliance? Let's Talk" – National Association of Professional Background Screeners (NAPBS) Mid-Year Conference, 2017
- "Don't Bungle Your Last Chance Before a Lawsuit: How to Get Disputes Right" – National Association of Professional Background Screeners (NAPBS) Webinar Series, 2016
- "They Did What??? Preparing for the DOL's Upcoming FLSA Overtime Wage Changes" – DeWitt Half-Day Continuing Legal Education Seminar, 2016
- "Background Screening Do's and Don'ts for Staffing Companies" – National Association of Personnel Services Lunch and Learn Education Series, 2016
- "Yes, End-User Contracts Matter! So Let's Get Them Right!" – National Association of Personnel Services Lunch and Learn Education Series, 2016
- "FCRA Class Actions: Minimizing Litigation Woes for Employers" – The Knowledge Group / The Knowledge Congress Live Webcast Series, 2016
- "Little Mistakes Can Lead to Big Class Actions" – National Association of Professional Background Screeners (NAPBS) Mid-Year Conference, 2016
- "SEC Attacks Language Commonly Used in Settlement and Severance Agreements" – DeWitt Employment Law News Feed, November 2016
- "Must Employers Pay Employees To Put On Clothes And Equipment Before Their Shift?" – DeWitt Employment Law News Feed, April 2016
- "Increased FCRA Background Check Litigation – How Employers Reduce Risk in 2016" – The Knowledge Group / The

Knowledge Congress Live Webcast Series, 2015

- "Identifying Compliance Priorities by ("Hold Your Nose!") Thinking Like A Plaintiff's Attorney" – National Association of Professional Background Screeners (NAPBS) 2015 Annual Conference
- Co-Presenter "Wage Issues In The Agricultural Industry" – Professional Dairy Producers of Wisconsin Business Conference, 2015
- "How to Conduct Legally Compliant Job Applicant and Employee Background Checks in Wisconsin" – State Bar of Wisconsin – Inside Track, 2015
- "Practical Tips for Handling Three Of The Most Challenging Employment Law Issues" – Wisconsin Specialty Cheese Institute 2015 Annual Meeting
- "Employment Law for Government Attorneys" – Wisconsin Department of Justice 2015 Conference on Employment Law
- "Don't Bungle Your Last Chance Before A Lawsuit: How To Get Disputes Right" – National Association of Professional Background Screeners (NAPBS), 2015 Annual Conference
- Co-Presenter, "Building An Effective, Legally-Compliant Background Screening Program" – National Association of Sports Officials Annual Conference, 2015
- "Do Pregnant Employees Have a Legal Right to a Workplace Accommodation?" – DeWitt Employment Law News Feed April 2015
- "Employers: Know Risks Before Instituting English-Only Workplace Rules" – DeWitt Employment Law News Feed, June 2014
- "ADAAA Temporary Disability Coverage – Even Temporary Injuries May Need to be Reasonably Accommodated" – DeWitt Employment Law Blog, February 2014
- Co-Presenter "Avoiding A New Class Action Minefield: Concrete Tips To Reduce Employee/Applicant Background Screening Risks" – Wisconsin Association of Corporate Counsel 2014 Annual Conference
- Co-Presenter "Social Media in the Workplace" – Metro Milwaukee Society for Human Resources 2014 Spring Conference
- Presenter "I Work For Who? The Subtle Nuances of Temporary Employees in the Workplace" – Pulp and Paper Manufacturers Association 2014 Annual Conference
- Presenter "Check Yourself: Avoiding Employee/Applicant Background Screening Risks" – State Bar of Wisconsin Continuing Legal Education Program, 2014
- Presenter "Times They Are A Changing: New Best Practices For Handling 7-Year Reporting Limits Under Federal And State Law" – National Association of Professional Background Screeners 2014 Annual Conference
- Co-Author "Sexual Orientation & Gender Identity In The Workplace" – State Bar of Wisconsin Continuing Legal Education Program, 2014
- Co-Presenter "The Most Pressing Legal Issues Confronting Your End-Users (And How You Should Handle Them)" – National Association of Professional Background Screeners 2014 Annual Conference
- Presenter "Employment Law And Regulatory Changes At The Federal Level" – Dane County Council of Public Affairs Quarterly Lunch Series, 2014
- Presenter "Best Practices For Complying With The EEOC's Background Screening Guidance" – Jungle Source Client Webinar Series, 2014
- Co-Presenter "How To Avoid The Biggest Overtime And Wage Mistakes" – Wisconsin Institute of Certified Public Accountants Continuing Education Seminar, November 2013
- "Supreme Court Considering if Employers Should Pay FICA Taxes on Severance Pay for Reduction-in-Force" – DeWitt Employment Law News Feed, November 2013
- "Don't be a Target – Revise Criminal History Section of Job Application Just Like Target Corp" – DeWitt Employment Law News Feed, November 2013
- Co-Presenter "10 Concrete Tips For Limiting Your Legal Risk In The Fastest-Changing Employment Areas" – Celerity Staffing Solutions Client Seminar, October 2013
- Co-Presenter "Hiring and Screening In Long Term Care" – Wisconsin Health Care Association / Wisconsin Center for Assisted Living Fall Convention, October 2013
- Co-Presenter "Can You Fire The Chronic Complainer?" – Society for Human Resource Management State of Wisconsin Annual Seminar, October 2013
- "Don't Forget To Include Time Limit in Employee Confidentiality Agreements in Wisconsin" – DeWitt Employment Law News Feed, September 2013
- Presenter "EEOC Criminal History Guidance: One Year Later" – National Association of Professional Background Screeners' 2013 Annual Conference
- "Employee Background Screening Programs That Fail To Incorporate 2012 EEOC Guidance Under Attack" – DeWitt Employment Law News Feed, June 2013
- Co-Author "Small Mistakes With Employee Background Screening Can Cause Big Problems" – Madison Society of Human Resource Management Newsletter, June 2013
- Keynote Speaker "Building and Managing a Best-Practice Background Screening Program" – Southeastern Wisconsin

Association of Healthcare Recruiters Annual Conference, May 2013

- Co-Author "Smart PTO Policies Can Pay Off For Employers" – Madison Society of Human Resource Management Newsletter, May 2013
- "Small Employment Background Screening Mistakes Can Cause Big Problems" – DeWitt Employment Law News Feed, May 2013
- Co-Author "Retaliation Remains Most Common EEOC Charge In 2012" – Madison Society of Human Resource Management Newsletter, March 2013
- "A Smart Vacation Payout Policy Can Pay Off for Wisconsin Employers" – DeWitt Employment Law News Feed, March 2013
- Co-Presenter "Onboarding Your New Hire" – Wisconsin Institute of Certified Public Accountants Seminar, February 2013
- Co-Author "EEOC Foreshadows Plans of Attack" – Madison Society of Human Resource Management Newsletter, February 2013
- Co-Author "How to Deal With Retaliation in the Workplace" – DeWitt Employment Law Blog, February 2013
- Co-Author "Time To Re-Think Maximum Leave Policies" – Madison Society of Human Resource Management Newsletter, January 2013
- "Top 3 HR Priorities For 2013" – DeWitt Employment Law News Feed, January 2013
- Presenter "Background Screening, Drug Tests & Reference Checks: Keys for Developing Sound & Legally Compliant Policies & Practices" – Wisconsin Institute of Certified Public Accountants Seminar, December 2012
- Co-Presenter "Background Screening Compliance Tips" – Plumbing Contractors Association of Southeastern Wisconsin Seminar, November 2012
- Co-Presenter "A Case Study: Hiring, Discipline, & Discharge" – Milwaukee Society of Human Resource Management Employment Practices Seminar, May 2012
- Presenter "Steps Every Employer Should Take BEFORE The Perfect Candidate Starts Work" – DeWitt HR Roundtable, February 2012
- Presenter "Not So Great Expectations: Navigating the Dreaded Termination Process" – DeWitt Employment Law Seminar, November 2011
- Presenter "10 Tips For Limiting Your Legal Risk as a CRA When You Don't Even Know Where to Begin" – National Association of Professional Background Screeners' 2011 Mid-year Conference
- Author "Is Your Company Complying With E-Verify?" – DeWitt HR Advantage, August 2011
- Author "Is your organization ready to pay $6 million for an employee background screening mistake?" – Wisbusiness.com, May 25, 2011
- Co-Presenter "Hot Topics in Employment Law" – Celerity Staffing Solutions Training Seminar, May 2011
- Co-Author "Insulate Your Company Against Sexual Harassment Claims: Five Important Reminders" – DeWitt HR Advantage, April 2011
- Presenter "Don't Get Sacked: Five Lessons to Learn From The Recent Sexual Harassment Claim Filed Against a Former Quarterback and One of His Former Teams" – DeWitt HR Roundtable, March 2011
- Presenter "Hiring And Evaluating Legally And Correctly" – Wisconsin Veterinary Medical Association Annual Conference, February 2011
- Presenter "Wisconsin Wage and Hour Laws" – Lorman Seminar, February 2011
- Presenter "Job Applications, Background Checks, and Pre-Employment Decision-making" – DeWitt Employment Law Seminar, November 2010
- Co-Author "Safe Screening, Safe Hiring" – HR Advisor, July 2009
- Co-presenter "FCRA Basics" – National Association of Professional Background Screeners' 2009 Annual Conference
- Co-presenter "Identity Theft: A Consumer Reporting Agency's Responsibilities Under the FCRA" – National Association of Professional Background Screeners' Web Seminar, June 2008
- Co-presenter "Hot Topics in Background Screening" – SHRM Web Seminar, May 2007
- Contributing author, 2007 American Bar Association Equal Pay Act Report
- Contributing author, 2005-2006 American Bar Association FLSA Report

Awards & Recognitions

- Wisconsin Rising Stars® (Employment and Labor Law) – 2013-2019
- Julie Strasser Award for Demonstrating Outstanding Concern for the Needy
- The Intellectual Property Achievement Award
- 2016 Client Choice Award Winner, Employment & Benefits

Client Recommendations

- "Scott is “among the most qualified in his field.” – Client
- “What distinguishes Scott from other lawyers is his ability to collaborate and creatively problem solve for clients.” – Client
- Scott’s “attention to detail and willingness to go above and beyond for clients is always the same, regardless of the case.” – Client
- “Scott is more than a competent lawyer - he is also a trusted adviser.” – Client
- “I have known and worked with Scott Paler for a couple of years and have nothing but good things to say. Scott has the ability to see all sides of a situation while incorporating our business position. This approach results in him providing comprehensive advice to ensure our company is not legally compromised.” – Client

Notable Representations

Background Screening Matters for Consumer Reporting Agencies (CRAs)

- Assisted many CRAs in evaluating whether they could report certain information to end-users under Fair Credit Reporting Act and state laws
- Assisted several CRAs in developing strong end-user contracts
- Helped numerous CRAs to prepare robust vendor contracts
- Assisted many CRAs in drafting sample consent forms for end-users
- Worked with many CRAs to devise electronic system for background screening consent forms
- Assisted numerous CRAs in improving the quality of their dispute processes
- Assisted man CRAs in evaluating whether they could report certain information to end-users under the Fair Credit Reporting Act and state laws
- Advised many CRAs on compliance priorities

Background Screening Matters for Employers

- Advised many employers on how to comply with “Ban the Box” laws and “Fair Chance” Acts
- Assisted several companies to reach favorable outcomes on claims alleging that they had improperly considered criminal history information and/or credit history information
- Prepared background screening consent form for many large and small employers
- Prepared credit check consent form to be used by employers in states where new credit laws require specific consent language
- Prepared adverse action letters for many large and small employers to ensure compliance with the Fair Credit Reporting Act and relevant state laws
- Prepared background screening policy for employers

Employment Counseling

- Informed various companies how to properly conduct reference checks on job applicants, and how to handle incoming reference requests
- Conducted exempt status audit for multiple major corporations designed to assess whether certain individuals should be reclassified as non-exempt from overtime (i..e, eligible for overtime)
- Assisted several companies in developing restrictive covenants for various categories of employees
- Counseled various businesses on how to comply with the Americans with Disabilities Act (ADA) in challenging situations
- Assisted a small employer to smoothly transition misclassified workers from exempt to non-exempt.
- Helped various companies to conduct employee handbook reviews
- Handled day-to-day calls from franchise owners seeking quick assistance in employment matters
- Provided counseling to numerous employers on how to handle a potential termination
- Helped employer to address severance issues related to a reduction in force

Employment Litigation

- Helped obtain summary judgment for a large transportation company accused of engaging in race and national origin discrimination
- Helped reach a favorable outcome for a large retailer accused of retaliation under Title VII
- Helped a large transportation company to reach a favorable outcome in a case accusing it of retaliation under the Surface

Transportation Assistance Act (STAA)

- Prepared position statements and obtained “no probable cause” findings for companies accused of discrimination, harassment, and/or retaliation before the Equal Employment Opportunity Commission (EEOC)
- Successfully defended employers before the Wisconsin Equal Rights Division at both the investigative and administrative appeal stage

Commercial Litigation Matters

- Obtained summary judgment or dismissal of five asbestos lawsuits for a Wisconsin construction company
- Second-chaired trial defense of a large mining company accused of multiple Clean Water Act violations and helped client to secure a successful outcome
- Helped to arrange a successful outcome for a company accused of violating its buy-sell agreement
- Assisted several clients to resolve claims alleging that they had misappropriated trade secrets and engaged in various other intellectual property violations