



## Stephen A. DiTullio

Attorney

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- 608-252-9362
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- Madison

### Service Areas:

- International
- Labor & Employment Relations
- Litigation
- Transportation & Logistics

### Education:

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

### Admissions:

- Illinois
- Wisconsin
- U.S. Court of Appeals for the 6th Circuit
- U.S. Court of Appeals for the 7th Circuit
- U.S. Court of Appeals for the 10th Circuit
- U.S. Supreme Court

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 employment claims and assists clients in providing successful defenses for businesses in litigation.

In particular, Steve is well versed in the trucking industry and employment issues related to the Department of Transportation (DOT), the Federal Motor Carrier Safety Administration (FMCSA) and the Surface Transportation Assistance Act (STAA).

Steve was the lead attorney in a case that received national attention, *EEOC v. Flambeau Corp.*, which was decided in favor of Steve's client by the Western District of Wisconsin and was affirmed by the Seventh Circuit Court of Appeals. 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.

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 federal and state employment-related statutes. Companies using contractors must be aware of each of these tests because failure to comply with the respective tests could result in a penalty, interest assessment, and other consequences and damages if an individual is mischaracterized as an independent contractor rather than an employee.

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 and transportation companies, manufacturers, engineering firms, software companies, printing companies, bovine artificial insemination companies, restaurants, retail establishments, veterinary practices and many others.

## **Affiliations**

- Member, State Bar of Wisconsin
- Board Member Agrace Hospice Care
- Chair of Audit & Compliance Committee, Agrace Hospice Care
- Board Member Gio's Garden
- Board Member Wisconsin Veterinary Medical Foundation
- Volunteer – Middleton Outreach Ministry
- Volunteer – Ice Age Trail Alliance

## **Articles & Presentations**

- ["U.S. Department of Labor Announces Final Rule on Classifying Workers as Employees or Independent Contractors Under the Fair Labor Standards Act"](#) – Co-author, DeWitt Business News, January 2024
- ["8 HR Lessons Observations a Few Weeks into the Coronavirus Crisis"](#) – DeWitt LLP Employment
- Law News Feed, March 2020
- ["Coronavirus - Top 10 Recommendations Recommendations for Your Workplace"](#) – DeWitt LLP Employment
- Law News Feed, March 2020
- ["Class Action Waivers Approved in Pro-Employer Epic Systems Corp. Decision, But Don't Implement or Change Your Arbitration Agreement Just Yet"](#) – DeWitt LLP Employment Law News Feed, June 2018
- "OSHA Inspections and Dairy Farmers – Know Your Rights!" – Webinar
- "ABA's treatise on the FLSA" – the Wisconsin State Bar's Discovery Law and Practice
- "IRS Form 1099 Reporting: What You Need to Know"
- Regular seminar presenter on numerous employment issues including OSHA, harassment, discrimination, employment investigations, wage and hours, employee discipline and termination, and independent contractor classification.

## **Awards & Recognitions**

- Super Lawyers® in Wisconsin – Employment and Labor Law – 2005-2019
- Best Lawyers® – 2016 Lawyer of the Year – Employment Law | Management
- "Top Lawyer" – Madison Magazine
- Best Lawyers® – Best Lawyers in America (Commercial Litigation, Employment Law, Labor Law) – Since 2008

## 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](#).

“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](#)

“It’s been over 16 years that we have been a client of Dewitt. 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](#)

“We have been a client of DeWitt's 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.](#)

“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](#)

“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.](#)

## Service Area Subspecialties

- Litigation
  - Professional Ethics/Discipline
  - Trials in State & Federal Courts