



Barry M. Willoughby

PARTNER

bwilloughby@ycst.com

Wilmington P: 302.571.6666

Working in the ever-changing field of labor and employment law, Barry Willoughby spends roughly half of his time counseling employers on how to avoid litigation, and the other half defending them when litigation is unavoidable. In his three decades on the front lines, he has encountered virtually every form of wrongful discharge claim, which he handles with both the skill and delicacy required in such “human issues” disputes.

Barry has broad and deep experience in enforcement of non-competition, non-solicitation, and confidentiality agreements in the Delaware Court of Chancery. Such litigation is typically expedited and requires the employer to seek temporary or preliminary injunctive relief to protect its rights. Barry and the Young Conaway team are known for their skillful and rapid action to protect employers from unfair competition from departing employees.

As a result of this experience, Barry and the Young Conaway team have developed sophisticated non-competition, non-solicitation, and confidentiality agreements to protect employers’ business, trade secrets, and intellectual property from use or disclosure by employees or former employees. These contracts usually contain state-of-the-art provisions that address — among other issues — jurisdiction and venue in the Delaware Court of Chancery.

Known for his sound judgment in sensitive employment issues, Barry does not hesitate to take a cost-benefit approach to disputes. His advice is invariably pragmatic, tailored to the business exigencies and risk tolerance of his clients, and he will recommend settling weak claims — or fighting strong ones — accordingly.

As discrimination law continues to narrow at the federal level, Barry notes that the states are now broadening “protections” for employees. Especially in the northeastern states — Delaware included — discrimination claims based on marital status, pregnancy, sexual orientation, gender identity, and genetic information now have the force of law. Barry believes that the rise of such claims at the state level gives new importance to his clients’ employment policies, which must be tailored to the states and jurisdictions where the employer operates to effectively minimize the risk of litigation.

Barry’s employment law experience has exposed him to numerous federal and state law constitutional claims on behalf of public sector clients. As a result, he has litigated several high profile claims involving state and federal constitutional law claims, many of which involve education law issues.

FOCUS:

- Representing employers in enforcing and drafting non-competition, non-solicitation and confidentiality agreements.
- Defending employers in claims of employment discrimination, retaliation, "whistleblower," and other "wrongful discharge" cases under federal and state law, including defense of charges of racial and sexual harassment.
- Defending public employers in First Amendment, due process, equal protection, and other constitutional law allegations.
- Representing employers in union related conflicts, including opposition to union organizing campaigns and defense of NLRB unfair labor practice proceedings and contractual grievance/arbitration hearings.

Practices

- Labor and Employment
- Education Law

Education

- Penn State Dickinson School of Law (J.D., *cum laude*)
- University of Delaware (B.S.)
 - High Honors and Distinctions

Bar Admissions

- Delaware

Court Admissions

- U.S. District Court for the District of Delaware
- U.S. Court of Appeals for the Third Circuit
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Supreme Court

Distinctions

- Martindale-Hubbell, AV Preeminent®, 2016
- *Chambers USA - America's Leading Lawyers for Business*, Labor and Employment, 2006-Present
- *The Best Lawyers in America*®, 2016 Delaware Labor and Employment Litigation Lawyer of the Year, 2014 Delaware Labor Law Management Lawyer of the Year and 2013 Delaware Management Employment Lawyer of the Year
- 2013 Lawyer of the Year, *Management Labor Law*

- Delaware *Super Lawyers*®, Employment & Labor, 2007 - Present
- *Who's Who Legal USA*, Management Labour & Employment, 2006

Memberships and Affiliations

- Delaware State Bar Association, Employment Law Section, Former Chair; Labor Law Committee, Former Chair; Member
- American Bar Association, Member
- College of Labor & Employment Lawyers, Fellow
- Society for Human Resources Managers (SHRM), Associated Member
- Delaware Council of School Board Attorneys
- Colonial Education Foundation, Board Member
- Defense Research Institute, an organization representing the interests of defendants in litigation matters
- United Way of Delaware, Inc., Pro Bono General Counsel; Chair - Statewide fundraising for the Attorneys Division; Ex-Officio Board Member
- Junior Achievement of Delaware, Inc., Pro Bono General Counsel and Corporate Secretary
- Wilmington Manor Volunteer Fire Company, Honorary Member