

Litigation Departments of the Year — Specialty Labor and Employment, Finalist: Sills Cummis & Gross

The answers below were provided by Patricia Prezioso, Chair, Employment and Labor Practice Group, Sills Cummis & Gross.

What are some of the department's most satisfying successes of 2023, and why?

In recent years, our department has handled many trade secret matters involving claims of employee misappropriation, either with our client losing data through exiting employees or being accused of having a competitor's data coming into a client's system through a new hire. The term "trade secrets" encompasses more than secret formulas, as the term is broadly defined under federal and state law, and may include customer information, sales data, and the like, depending on how the company protected the information. These cases require quick and accurate work because the resulting business losses can be devastating. When our clients are defendants in such claims, a swift and thorough investigation makes for a robust defense and often assists our clients in shortening or avoiding litigation. These claims involve businesses of all sizes, with clients ranging from the Fortune 200 to startups. As is common with the "practice" of law, the lessons learned in litigating in this area informs our counseling. The increase in these claims has provided keen insight into our policy, protocol, and agreement drafting regarding confidentiality, permissive data use, restrictive covenants, and codes of conduct. We strive to reduce our clients' unfair competition risk and we seek to ensure that our clients have taken sufficient "reasonable measures" to meet the Defend Trade Secret Act requirements, should the client need its protection. By way of example, employee on-boarding procedures help avoid allegations of misappropriation, while off-boarding procedures help ensure all data is collected and minimally shows efforts to track data. These matters are very satisfying because they continually test the rigor of our employment policy and agreement drafting at a time when this area of the law continues to develop, and has led to wonderful business partnerships with several clients who view us as trusted advisors in protecting their sensitive information.

What have been some of your department's long-term adaptations in recent years?

In recent years, the breadth of frequent employment issues has broadened due to our evolving laws and culture. For example, most employers permit some remote work flexibility for office workers; however, remote work gives rise to many challenges, such as sensitive business information security and tracking employee hours worked, among others. Employers are facing challenges with mentorship, training, collaboration, and an ever-increasing stress on middle management to facilitate a flexible

**PATRICIA
PREZIOSO, ESQ.**

*Chair, Employment and Labor
Practice Group*

(973) 643-5041

pprezioso@sillscummis.com



environment for the benefit of retaining employees while needing to meet business needs. We are experiencing more businesses wanting to update their employment infrastructure to address protection from unfair competition in a legal landscape where non-compete enforcement is narrowing nationally with many states limiting non-compete use. Moreover, sale and merger opportunities come with the buyer's scrutiny of a business's employment infrastructure

because issues like misclassification, wage and hour compliance, information security, and employee agreements (especially restrictive covenants) can cause future expenditures and impact value. Indeed, we are constantly counseling and updating agreements, protocols, and policies to support our clients in minimizing risk so they can focus on business growth.

The market for legal services has been changing since well before 2023. What does success require in this climate?

Success requires prompt and effective responsiveness that demonstrates an understanding that businesses need to run, grow, and make a profit. That said, we also know that employees are often a business's most important assets, so it is important that employers create a work environment where employees can thrive and encourages the work and loyalty that every business needs. The first step in assisting our clients is to understand their business, their culture, and their needs. Our work begins with listening to our clients, and then together determining a strategy and budget to meet their needs. We align with our clients on the services to be provided and communicate regularly on our clients' desired timeline, so our clients are as hands-on or hands-off as they desire. Our success is measured by our growing client base and repeat work. Regarding litigation, we are big proponents of a deep factual dive up-front to identify the matter's strengths and weaknesses to minimize surprises later. Too many companies have experienced factual surprises late in discovery, which destroys strategy, causes back-pedaling, and often results in additional expense.

How has the firm handled pressure from clients, such as with rates, and from the hiring market, with competition for talent?

Sills Cummis & Gross is known to provide high quality work for our clients – something our clients desire and appreciate. As a regional firm we are cognizant of our market and the need for our work to bring value to our clients. I can attest that this firm is a great landing spot for laterals. Our New Jersey headquarters is a draw for many big law attorneys who are looking for a positive lifestyle change. Our firm's management is entrepreneurial and encouraging, and our work environment is tremendously supportive.

Update (October 29, 2024): Sills Cummis & Gross was named 2024 "Litigation Department of the Year – Labor and Employment" by the *New Jersey Law Journal* at the 2024 New Jersey Legal Awards on October 29, 2024. This is the second time since 2022 that Sills Cummis received this honor.

To view award methodology, please visit www.sillscummis.com/award-methodology.
No aspect of this advertisement has been approved by the Supreme Court of New Jersey.