Areas of Work
Labor & Employment, Employee Benefits & ERISA, Commercial Litigation, Retail & E-Commerce

Overview
Steptoe partner Steve Wheeless leads the firm’s nationwide labor & employment group. He practices nationally, representing clients with their toughest workforce issues in numerous industries and locations. Prior to joining the firm, Steve served as a United States Air Force F-16 Instructor Pilot and a Diplomatic Exchange Officer to the Royal Danish Air Force. His primary areas of practice include:

Change Management, Audit Committee Investigations, Workforce Design

Steve has spent decades helping C-Level decision-makers develop and implement strategy around key operational and organizational decisions, whether presented during an institutional crisis or as part of goal setting and long-range planning. For decision-makers balancing fiduciary, legal, and leadership responsibilities, Steve marshals a wealth of cause-and-effect experience to help clients navigate legal, practical, and brand risk. He has advised publicly-traded audit committees on fiduciary responsibilities related to financial-mismanagement whistleblower claims and conducted related and highly-sensitive internal investigations. Steve has advised on numerous ERISA plan design and implementation issues for large private employers dealing with fiduciary obligations in the context of changing union-employer relationships. He provides on-going advice and counsel to public retirement system stakeholders on the intersection of fiduciary duties and a variety of real-world labor, statutory, and constitutional issues. He also helps large employers design (or redesign) and implement enterprise-level programs that create a culture of top-down, bottom-up, and peer-to-peer respect, diversity, and inclusion.

Labor

Steve represents clients nationwide with:
- Strategic Labor Relations Workforce Planning
- State and Federal Labor-Related Litigation
- NLRB representation hearings and unfair labor practice proceedings
- Collective bargaining, contract interpretation, and arbitrations
- Union organizing campaigns
- Supervisor Leadership Workshops

Clients have selected Steve to serve as lead trial counsel in connection with more than 2,000 employer and union-initiated unfair labor practice allegations, labor-related civil suits, and arbitration matters such as:

- **Walmart Stores Inc.**, 368 NLRB No. 146 (Dec 16, 2019) (NLRB reversed trial judge and ruled the employer did not violate the Act by restricting union paraphernalia to a "small and non-distracting" size on the sales floors of 5,000+ facilities nationwide)
- **Wal-Mart Stores, Inc.**, 368 NLRB No. 24 (July 25, 2019) (NLRB reversed trial judge and ruled that the employer did not violate the Act by applying its attendance policy to intermittent work stoppage participants; establishing that the Act does not protect intermittent work stoppages)
- **Wal-Mart Stores, Inc.**, 2016 WL 4191886 (obtained dismissal of nationwide complaint targeting all non-union employees in America on jurisdictional grounds)
- **Wal-Mart Stores, Inc. v. United Food and Commercial Workers International Union, et al.** (obtained statewide injunctive relief against trespass by Union and its allies in CA, TX, FL, MD, AR, OH, and CO; defeating Union’s motions to dismiss based on preemption, SLAPP, and anti-injunction act grounds)
- **Flagstaff Medical Center v. NLRB**, 715 F.3d 928 (DC Cir. 2013) (reversing NLRB on CEO statements to employees and employee discharge)
- **National Basketball Association**, 2-CA-40518 (2011) (surface bargaining claims settled)
- **Flagstaff Medical Center**, 357 NLRB No. 65 (2011) (rejecting joint employer, subcontracting, and discrimination claims filed during multi-year corporate campaign)
- **Marceau v. IBEW**, 618 F. Supp. 2d 1127 (2009) (union’s motions to dismiss and summary judgment on client’s RICO claims denied)
- **Wal-Mart Stores, Inc.**, 351 NLRB No. 103 (2008), and **Wal-Mart Stores, Inc.**, 339 NLRB No. 153 (2003) (establishing an employer’s right to lawfully place visiting, high-ranking managers in a facility experiencing organizing without creating an inherent and unlawful solicitation of grievances)
- **UFCW, Int’l v. NLRB**, 519 F.3d 490 (DC Cir. 2008) (affirming that petitioned-for unit was inappropriate after unilateral changes in employee job duties)
- **Sam’s Club**, 349 NLRB 1007 (2007) (upholding disciplinary decisions, dress code rules, and campaign messages)
- **Wal-Mart Stores, Inc.**, 349 NLRB No. 102 (May 18, 2007) (establishing an employer’s right to impose time, place, and manner property access rules for leased exterior property)

National and multi-national clients also call on Steve for advice and counsel on merger and acquisition issues involving organized work forces as well as labor-related antitrust issues as they affect key offensive and defensive business decisions. Steve helps clients deal with Lanham Act issues arising in the context of evolving “work center” corporate campaigns.

**Employment Class Action and Complex EEO Litigation**
Steve serves as lead trial and appellate counsel for employers defending against wage-and-hour putative class and collective actions. For example, he led the litigation and appellate team that prevailed on all class and individual claims in *Osuna v. Wal-Mart Stores, Inc.*, 214 Ariz. 286 (ct. App. 2007), affirming denial of class certification and dismissing wage-and-hour class claims by putative class of 50,000 current and former employees. He was also counsel of record in *Carrillo v. Schneider Logistics, Inc., et al.*, a federal wage and hour class action. In a recent case in the Western District of New York, he led the team that litigated a wage-and-hour class action under the FLSA’s and New York state’s stringent notice and paystub requirements for employers who take a tip credit. He also defends clients facing complex EEO and EEOC Commissioner-initiated Charges and Complaints, including for example claims of systemic and disparate-impact discrimination as in *Tempesta v. Motorola, Inc.*, 21 Fed. Appx. 700 (9th Cir. 2001) affirming summary judgment on race claims challenging the employer’s system-wide RIF policy.

Steptoe’s Labor & Employment Group regularly blogs on topics of interest to HR professionals on Steptoe’s Labor & Employment Blog.

Commercial

Steve represents businesses in state and federal court at the trial and appellate level in complex commercial litigation involving contract, partnership, and financial disputes. See, e.g., *State ex. rel. Goddard v. Western Union Financial Serv.*, 216 Ariz. 361 (Ct. App. 2007).

Bar & Court Admissions

- District of Columbia
- Arizona
- US District Court, District of Columbia
- US Court of Appeals, Fifth Circuit
- US Court of Appeals, Ninth Circuit

Education

- J.D., The George Washington University Law School, with highest honors
- M.S., Golden Gate University, Information Systems
- B.S., Roosevelt University, with honors, Computer Science
- B.S., United States Air Force Academy, with honors, Astronautical Engineering
Speaking Engagements

- CUE National Spring Conference Keynote Speaker: NLRB Update (May 6, 2019)


- CUE/LLAC: A Reversal of Fortune: Arguing Temp Employees Into a Proposed Unit (October 6, 2016)


  Steptoe's 12th Annual Labor Relations Conference: Preparing for Expedited Elections; Defenses to the Undersized Bargaining Unit; and Responding to Sit-Ins, Quickie Strikes, and Demonstrations (May 7-8, 2015)

- ABA Annual Labor and Employment Law Conference: Alternate Organizing Campaigns; The Future is Here (November 7, 2014)

  Steptoe’s 11th Annual Labor Relations Conference: Most Important NLRB Decisions in the Last 12 Months; Responding to Micro-Unit Organizing Campaigns and Expedited Elections; The Rise in "Alt-Labor" and the Push for Higher Entry-Level Wages; Surviving Long-Term Union Corporate Campaigns and the Years of ULP Charges (May 2, 2014)

- ABA Webinar: NLRB Update: What’s on the NLRB's Agenda in 2014 (December 11, 2013)


  American Concrete Pumping Association: To Be or Not To Be: A Party to a Pumping Contract (May 17, 2013)

  Steptoe’s Tenth Annual Labor Relations Conference: Dealing with Union-Backed "Community Organizations"; NLRA Rights of Off-Duty and Off-Site Employee (May 2-3, 2013)


- National Auto Care Association, 10 Tips for Effective CBA Administration (April 13, 2012)

- National Business Institute: Employment Laws Made Simple (December 6, 2011)

- American Bar Association: Anti-Trust Law Labor Exemptions (November 5, 2011)

- CUE Fall Conference: Micro-Bargaining Units and Expedited Elections, a One-Two Punch To Employers (October 11, 2011)


- Edison Mission Energy: Seven Key Skills to Create and Maintain Employee Loyalty (October 17, 2011)

- CUE Fall Conference: Expedited Elections in Micro-Units: Nightmare or Just A Bad Dream? (October 11, 2011)

SIGMA HR Convention: *Telecommuting and the Modern Workforce* (October 5, 2011)

Food Processing Industry HR Share Group Meeting: *Social Media and the American Workplace: Trends, Tactics, and Teachable Moments* (September 12, 2011)


Associated General Contractors, Strategic Planning Conference: *A New Day at the NLRB: What Expedited Elections Mean* (July 28, 2011)


Society for Independent Gasoline Marketers of America: *Recent Employment Law Developments at the USSC* (April 5, 2011)

Arizona Chamber of Commerce: *Labor Legislation Updates* (SB 1363 and 1365) (February 9, 2011)

American Bar Association Midwinter Convention: *How To Take A ULP Case To Trial* (November 6, 2010)

American Bar Association Developing Labor Law Committee: *The Ethics of Social Media in Labor Relations* (March 2, 2010)
News & Publications

PRESS RELEASES

Steptoe Receives 125 Individual Mentions in *Best Lawyers in America* 2021
Four Lawyers Named 'Lawyer of the Year'
August 20, 2020

MEDIA MENTIONS

*Daily Journal* Profiles Steptoe's Retail Group on Helping Clients Adjust to 'New Normal'
April 24, 2020

CLIENT ALERTS

*California Governor's Rx for Food Workers: Paid Sick Leave and Hand Washing Orders*
April 22, 2020
By: Steven D. Wheeless, Tyechia L. White

PRESS RELEASES

*Washington, DC Super Lawyers Recognizes 62 Steptoe Attorneys*
April 17, 2020

CLIENT ALERTS

*Retail Industry Best Practices During the COVID-19 Pandemic*
April 2, 2020
By: Stephanie A. Sheridan, Steven D. Wheeless, David Mesa

CLIENT ALERTS

*Did You Notice? - Requirements to Provide Notice of Paid Leave Under FFCRA*
March 31, 2020
By: Melanie Nussdorf, Scott A. Sinder, Steven D. Wheeless, Tyechia L. White, LeeAnn Goheen

CLIENT ALERTS

*President Trump Signs CARES Act into Law*
Steptoe’s Analysis
Updated March 27, 2020; Originally Published March 25, 2020
By: Jason Abel, James D. Barnette, George Callas, Alan Cohn, Matthew B. Kulkin, Melanie Nussdorf, Sara Pikofsky, Scott A. Sinder, Steven D. Wheeless, Lisa M. Zarlenga, Kate Jensen, Josh Oppenheimer

PRESS RELEASES

Steptoe Receives 86 Individual Mentions in *Best Lawyers* 2020
Two lawyers named 'Lawyer of the Year'
August 15, 2019

PRESS RELEASES

Steptoe Receives 20 Practice, 63 Individual Mentions in *Chambers USA* 2019
April 29, 2019

PRESS RELEASES

*National Law Journal* Names Steve Wheeless a Trailblazer in Employment
March 1, 2019
Noteworthy

- Chambers USA, Labor & Employment, Arizona (2012-2019)
- Developing Labor Law, Co-Editor (2013-2016)

Professional Affiliations

- Immediate Past Management Chair, Developing Labor Law Committee, American Bar Association
- Labor Lawyers Advisory Council to National CUE Association
- National Financial Institutions Employment Lawyers Committee