

## Employment Group Of The Year: Littler

By **Amanda Ottaway**

*Law360 (January 17, 2023, 2:02 PM EST)* -- Littler Mendelson PC helped net big wins for IT company Wipro and convenience store chain Circle K, as well as for Viking River Cruises in a case before the U.S. Supreme Court, earning the firm a spot among Law360's 2022 Employment Groups of the Year.

Littler, which describes itself as having a "singular focus on labor and employment law," takes particular pride in the depth of its attorneys' expertise, said firm president and managing director Erin Webber. About 1,200 of the firm's 1,700-plus lawyers are U.S.-based, Webber said.

"One of the calling cards is having that depth of subject-matter expertise on anything that touches [labor and employment]," Webber said. She commended her colleagues for their work in 2022.

"They are the cream of the crop in their practice group and in their area," Webber said. "And I just feel so fortunate as a firm and lucky as a person to have them as partners."

One notable recent case that Littler worked on, which it called a "potentially monumental development," was Viking River Cruises Inc. v. Moriana before the U.S. Supreme Court. In June, the justices found that someone suing under California's Private Attorneys General Act may be required to take their individual claims to arbitration. The PAGA deputizes individuals to act on behalf of the state in Labor Code enforcement.

The U.S. high court's 8-1 ruling essentially means that any worker who has signed an arbitration agreement can't bring a PAGA case in court.

Viking River Cruises has been a longtime client of the firm, said Keith Jacoby, co-chair of Littler's class action practice group. Though Kirkland & Ellis LLP handled oral arguments before the Supreme Court, Jacoby said the firms briefed the case as a team.

One key takeaway from Viking is that "the U.S. Supreme Court is going to vigorously defend the rights of parties, whether they be in commercial agreements ... or in an employment setting, like this, to enter into arbitration agreements that make sense," Jacoby said.

Meanwhile, the U.S. Equal Employment Opportunity Commission announced in November that it had



reached an \$8 million conciliation agreement with gas station chain Circle K Stores Inc.

The agreement resolved the agency's allegations that Circle K discriminated against workers who were pregnant or have disabilities by not affording them reasonable accommodations. The EEOC's investigation took off from a series of bias charges beginning in 2010, Circle K's vice president of human resources said when the settlement was announced.

Littler shareholder Barry Hartstein, who said he has deep experience working with the EEOC, led the negotiations for the company. He pointed to Littler's knowledge of past EEOC settlement amounts and conditions as particularly helpful in reaching an agreement.

"We feel that by having that sort of toolkit at our fingertips, by monitoring every one of these cases, we have credibility with the agency," Hartstein said. That credibility helped the firm structure a fair agreement, he added.

The \$8 million settlement was significantly lower than the \$60 million that the EEOC initially wanted, and it meant the company avoided litigation, Littler said.

Additionally, the firm was instrumental in securing a settlement for IT company Wipro Limited, which, in March, defeated a class certification bid by white workers claiming race and national origin bias in Texas federal court.

In August, the parties announced that they'd reached a settlement, and the case was dismissed.

The suit was filed in December 2017 by two white male plaintiffs alleging that Wipro favored employees of Indian and South Asian origin in hiring and promotions.

The company hired Littler when the case was already in motion, Hartstein said.

"They brought us in because they needed a new strategy, and they needed a winning strategy," he said.

In a similar suit brought by the same plaintiff-side firm, the workers had been granted class certification, Hartstein said, so Wipro was concerned.

"These are highly paid consultants, ... so if you can imagine this in a nationwide class, the potential costs were of course significant," he said.

Hartstein pointed to Littler attorneys' skill in collaboration as one of the key factors behind the result.

And in the Big Apple, a group of Littler experts on artificial intelligence made it the only law firm to submit formal comments related to first-of-its-kind legislation governing the use of AI in employment decisions, the firm said.

The New York City statute, known as Local Law 144 or the Automated Employment Decision Tools Law, was passed by the City Council in November 2021. It was set to take effect this month, but the city pushed back the effective date to April 15.

The law will require businesses to conduct bias audits before using automated hiring tools and notify city-based applicants about the technology, how it works and what it will assess.

After Littler weighed in, New York City appeared to adopt some of the firm's suggestions in a set of draft regulations, such as narrowing the definition of AI and the workers to whom the law applies to include only "active applicants," the firm said.

"The regulations do a nice job of sort of narrowing that scope to say, 'OK, what are we really talking about here?'" shareholder Jim Paretti said.

"We had concerns with the scope of the law," Paretti said. "We had concerns with the notice requirements in the law. We had concerns with the definitions since there were also just a lot of nondefined terms. So we weighed in."

--Additional reporting by Jon Steingart, Vin Gurrieri and Emmy Freedman. Editing by Steven Edelstone.