

David C. Gartenberg

Shareholder

1900 Sixteenth Street
Suite 800
Denver, CO 80202
main: (303) 629-6200
direct: (303) 362-2855
fax: (303) 629-0200
dgartenberg@littler.com



Focus Areas

Unfair Competition and Trade Secrets
Workplace Violence Prevention
Littler X-celerator Toolkits

Overview

David Gartenberg represents and advises employers of all sizes in complex litigation and employment law in federal and state courts nationwide. He has extensive experience in cases involving age, race, national origin, sexual, and disability discrimination, harassment, retaliation, wrongful termination, wage and hour issues, trade secrets, unfair competition, non-competition and non-solicitation agreements. He regularly defends clients in employment-related disputes before federal and state courts, the Equal Employment Opportunity Commission (EEOC), and the Colorado Civil Rights Division (CCRD), and the Department of Labor (DOL).

David works closely with all of his clients from the outset of a matter to ensure that their legal issues are resolved in the best possible manner given the circumstances of each case.

David has robust courtroom experience, including serving in a lead role in multiple trials and injunction hearings in the state and federal courts of Colorado, New York, and elsewhere. David's recent representative matters include:

- Defeated motion for a preliminary injunction against a company that hired an employee of a competitor who allegedly took trade secrets of his former employer following a hotly-contested evidentiary hearing in Denver District Court in the State of Colorado
- Successfully argued for preliminary injunction following evidentiary hearing to protect client's trade secrets, confidential information, and competitive advantage in Adams County District Court in the State of Colorado
- Won summary judgment for rental car company on disability, FMLA, and harassment claims of a former employee claiming he had been wrongfully discharged in the U.S. District Court for the District of Colorado

- Second chair at a federal bench trial for wrongful termination based on race and national origin, leading to the U.S. District Court for the District of Colorado dismissing plaintiff's claims in their entirety and finding in full for the plaintiff
- Obtained Rule 12 dismissal of class-based ERISA claims against multi-billion dollar engineering and construction company in the U.S. District Court for the Southern District of New York
- Second chair at a federal bench trial defending company involving wage and hour and unpaid commissions issues, following which the U.S. District Court for the Southern District of New York found for David's client in full, and the U.S. Court of Appeals for the Second Circuit affirmed
- Successfully defended dozens of charges of discrimination in state and federal agencies, including the EEOC, CCRD, and DOL
- Participated in multiple mediations, settlement conferences, and informal settlement negotiations in order to efficiently resolve disputes

David also serves as the Colorado coordinator and liaison for Littler's Workplace Policy Institute (WPI). David focuses on Colorado state legislative and regulatory developments in employment and labor law, as well as municipal ordinances and regulation of the workplace. He assists the employer community in understanding and impacting Colorado legislation before it becomes law.

David regularly conducts trainings for clients focused on topics including harassment, discrimination, FMLA, and ADA issues. He regularly drafts updates to employment handbooks, including state supplements to conform to state and local laws throughout the United States.

Recognition

- Named, Rising Star, *Super Lawyers*, 2015-2019

Education

J.D., Cornell University Law School, 2010

B.A., Cornell University, 2005

Bar Admissions

Colorado

New Jersey

New York

Courts

U.S. Court of Appeals, 2nd Circuit
U.S. District Court, Southern District of New York
U.S. District Court, Eastern District of New York
U.S. District Court, District of Colorado

Publications & Press

Employer Considerations for Navigating Evolving Gun Laws

Littler Insight

July 27, 2022

Colorado Updates its Paid Sick Leave Guidance, Including Clarifications on Carry-Over Amounts and Public Health Emergency Leave

Littler ASAP

July 12, 2022

Colorado Updates Notice Requirements for Employees Upon Discharge

SHRM Online

June 22, 2022

Colorado Updates Notice Requirements for Employees Upon Discharge

Littler ASAP

June 15, 2022

Colorado Issues First Round of Regulations and Guidance on its Paid Family and Medical Leave Insurance (FAMLI) Program

Littler Insight

May 16, 2022

Court excludes emotional distress damages under Rehabilitation Act

Human Resources Director

May 4, 2022

U.S. Supreme Court Excludes Emotional Distress Damages from Remedies Available Under Rehabilitation Act and Affordable Care Act

Littler ASAP

May 2, 2022

U.S. Supreme Court Lifts Injunctions Against CMS Vaccine Mandate

Littler ASAP

January 13, 2022

COVID-related labor laws, from vaccine mandates to paid leave, have Colorado employers confused

The Colorado Sun

December 28, 2021

Colorado's Vaccine Mandate for Healthcare Providers Remains in Effect Despite Stays to CMS Vaccine Mandate

Littler Insight

December 15, 2021

CMS Vaccine Mandate Blocked Nationwide

Littler Insight

December 2, 2021

Douglas County, Colorado Enacts Public Health Order That Conflicts With Colorado, CDC and OSHA Guidance on COVID-19 Quarantine Protocols

Littler ASAP

October 14, 2021

Colorado Issues COVID-19 Vaccination Mandate for Many Healthcare Settings

Littler Insight

September 1, 2021

White House Announces that Nursing Homes Risk Losing Medicare and Medicaid Funding Unless They Mandate Staff Vaccination

Littler ASAP

August 19, 2021

Denver Mandates COVID-19 Vaccination for Certain Employees

SHRM Online

August 10, 2021

Denver Mandates That All Public-Sector and Certain Private-Sector Employees Be Vaccinated for COVID-19

Littler ASAP

August 4, 2021

Key Takeaways from the EEOC's Updated Guidance Regarding COVID-19 Vaccinations, Incentives

Littler Insight

June 1, 2021

Colorado Ties Mask Mandate to Vaccination Status, but Employers Should Proceed with Caution

Littler ASAP

May 4, 2021

Colorado Clarifies the Obligation to Provide Public Health Emergency Leave to New Hires and Part-Time Employees

Littler ASAP

March 2, 2021

Littler Announces New Shareholders and Principals Elevating 26 Attorneys

Littler Press Release

January 4, 2021

Colorado Confirms COVID-19 Triggers Public Health Emergency Leave Under the Healthy Families and Workplaces Act

Littler ASAP

December 24, 2020

Questions and Answers About Proposition 118, Which Enacts Paid Family and Medical Leave in Colorado

Littler Insight

November 12, 2020

How to Help Survivors of Domestic Violence in the Pandemic

SHRM Online

October 1, 2020

Colorado Passes Law Requiring Employers to Provide Three Types of Paid Sick Leave

Littler ASAP

June 26, 2020

Colorado Issues Guidance on Accommodations in the Age of COVID-19

Littler Insight

May 27, 2020

Colorado Amends its Safer at Home Order to Permit Employees to Self-Check for COVID-19 Symptoms and to Expand the Categories of Businesses Permitted to Open

Littler ASAP

May 6, 2020

What Employers Can Do About Domestic Violence Right Now

Law360

April 30, 2020

Colorado's "Safer at Home" Order Permits Some Businesses to Reopen with Strict COVID-19 Suppression Measures

Littler Insight

April 29, 2020

Colorado Enters Its "Safer At Home" Phase of the COVID-19 Pandemic, But Many Municipalities Remain on Lockdown

Littler ASAP

April 25, 2020

Domestic Violence in the Era of COVID-19: What Can Employers Do?

Littler Insight

April 20, 2020

A COVID-19 Guide for Colorado Employers

Littler ASAP

March 24, 2020

California's Expanded Red Flag Law Empowers Employers to Seek Gun Violence Restraining Orders; Other States May Follow Suit

Littler ASAP

January 21, 2020

Does Jander Signal the Liberalization of Pleading Standards in Stock-Drop Cases? Signs Point to No

Littler Insight

July 25, 2019

Automation & Artificial Intelligence: TIDE at the Tipping Point

Littler WPI Report

May 9, 2019

Full 10th Cir. Weighs Proof Needed for ADA Accommodation Claim

Bloomberg Law

May 7, 2019

Colorado Supreme Court Clarifies the Statute of Limitations under the Colorado Wage Act, Closing the Door on Stale Claims

Littler ASAP

March 15, 2018

Sixth Circuit Clarifies Discrimination Pleading Burden and Liability Related to Title IX Sexual Misconduct Investigations

Littler Insight

March 13, 2018

A Circuit Split On Pleading Standard For Title IX Claims

Law360

March 13, 2018

Littler's Denver Office Grows with Addition of Five Attorneys

Littler Press Release

November 9, 2017

Speaking Engagements

Understanding Colorado's New Paid Family and Medical Leave Insurance (FAMLI) Program

August 24, 2022

Program Chair, Federal Practice Update 2022

Federal Bar Association – Colorado Chapter and the Faculty of Federal Advocates

July 29, 2022

Practically Navigating Complex, Real-Life Leave and Accommodation Scenarios

Littler Executive Employer Conference

May 5, 2022

The Road Map for Navigating Workplace Violence Issues in Colorado

November 3, 2021

2021 Rocky Mountain Virtual Regional Employer Conference

Denver, CO

October 6, 2021

Returning to Work in Colorado: Considerations for Employers in Year Two of the Coronavirus

Denver, CO

June 2, 2021

Compliance Coffee Talk

Denver, CO

April 7, 2021

COVID-19 in the Workplace: Recent Developments and Compliance Challenges - Session Eleven

February 5, 2021

2020 Rocky Mountain Virtual Employer

November 18, 2020

The New Normal: Colorado's Changing Leave Law Landscape

July 9, 2020

The Next Normal: Strategies and Best Practices for Returning to Work in Colorado

May 11, 2020

Tales from the Trenches: Updates and Practical Guidance for Employers on COVID-19

April 21, 2020

Recent Developments In Noncompetition and Nonsolicitation Law In Colorado

Colorado Bar Association CLE

January 16, 2020

Preventing and Responding to Workplace Violence: What Would You Do If...?

2019 Rocky Mountain Employer Conference, Denver, CO

October 4, 2019

Colorado Employment Law Update

2019 Rocky Mountain Employer Conference, Denver, CO

October 4, 2019

Rehab Roundup: Managing Employees with Substance Abuse and Addiction Issues

Rocky Mountain Employer Conference

September 21, 2018

A Little(r) Painkiller for Your FMLA and ADA Migraines: Best Practices for Frequently Encountered Scenarios

2017 Littler Rocky Mountain Employer Conference

October 3, 2017

Books & Book Chapters

- Co-author, Colorado section, *Employment At Will Treatise*, 2018 Supplement