



## David C. Gartenberg

Shareholder

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## Focus Areas

Unfair Competition and Trade Secrets  
Workplace Violence Prevention and Crisis Response  
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, Ones to Watch, *The Best Lawyers in America*®, 2023-2024
- 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

**Colorado Legislative Preview: Business will play both defense and offense**

*The Sum & Substance*

January 5, 2024

**Colorado employers must prepare for these new laws in 2024**

*The Sub & Substance*

December 19, 2023

**Questions surround proposed FAMLI rules as program preps for January launch**

*The Sum and Substance*

October 27, 2023

**Colorado Enacts A Slew Of New Employment Laws**

*Law Week Colorado*

August 10, 2023

**The POWR Act takes effect: What does it mean for CO businesses?**

*Denver Business Journal*

August 8, 2023

**Colorado Enacts Legislation Restricting Employers from Requesting Age-Related Information from Job Applicants**

*Littler ASAP*

June 12, 2023

**Colorado's POWR Act Significantly Expands Workplace Harassment Laws, Limits Nondisclosure Provisions, and Makes Numerous Other Changes to Employment Law**

*Littler Insight*

June 8, 2023

**Colorado Expands Reasons Employees Can Use Paid Sick Leave**

*Littler ASAP*

June 5, 2023

**Colorado Supplemental Sick Leave Relating to COVID-19 Ends in June 2023**

*Little ASAP*

May 16, 2023

**Colorado (Again) Changes Rules on How Employers Must Compensate Employees Using Paid Leave**

*Little ASAP*

December 20, 2022

**Colorado and Oregon Trigger Protections for Leaves Relating to Respiratory Illnesses**

*SHRM Online*

November 23, 2022

**Colorado and Oregon Trigger Protections for Leaves Relating to Non-COVID Respiratory Illnesses**

*Little ASAP*

November 21, 2022

**Colorado Issues Final Rules on Paid Family and Medical Leave**

*SHRM Online*

September 9, 2022

**Employer considerations for navigating evolving gun laws**

*Reuters Westlaw*

September 9, 2022

**Colorado Issues Final Rules on Benefits and Employer Participation Requirements for Paid Family and Medical Leave Insurance Program, Clarifies Private Plan Option**

*Little Insight*

September 6, 2022

**Changes in Gun Laws Affect the Workplace**

*SHRM Online*

August 18, 2022

**Employer Considerations for Navigating Evolving Gun Laws**

*Little Insight*

July 27, 2022

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

*Little 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**

*Little 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**

*Little ASAP*

June 26, 2020

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

*Little 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**

*Little 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**

*Little Insight*

April 29, 2020

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

*Little ASAP*

April 25, 2020

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

*Little Insight*

April 20, 2020

**A COVID-19 Guide for Colorado Employers**

*Little ASAP*

March 24, 2020

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

*Little ASAP*

January 21, 2020

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

*Little Insight*

July 25, 2019

**Automation & Artificial Intelligence: TIDE at the Tipping Point**

*Little 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**

*Little ASAP*

March 15, 2018

**A Circuit Split On Pleading Standard For Title IX Claims**

*Law360*

March 13, 2018

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

*Little Insight*

March 13, 2018

**Little's Denver Office Grows with Addition of Five Attorneys**

*Little Press Release*

November 9, 2017

**Speaking Engagements**

**2023 Rocky Mountain Regional Employer Conference**

Denver, CO

October 27, 2023



**Colorado POWR Act**

Lorman CLE Webinar

October 25, 2023

**Legislative Updates from Management and Employee Counsels' Perspectives**

Colorado Bar Association

October 19, 2023

**Workplace Violence Through the LoD Lens – Compliant Solutions for the Questions You Have Today**

Webinar

February 28, 2023

**Implementing Workplace Weapons Policies After SCOTUS' Bruen Decision**

Strafford Webinar

February 8, 2023

**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

**Colorado Employment Law Update**

2019 Rocky Mountain Employer Conference, Denver, CO

October 4, 2019

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

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 chapter, *Employment at Will: A State-by-State Survey*, American Bar Association, 2021
- Co-author, Colorado section, *Employment At Will Treatise*, 2018 Supplement