

## J. Bradley Spalding

Shareholder

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## Practice Areas

Litigation and Trials  
Discrimination and Harassment  
Background Checks  
Unfair Competition and Trade Secrets  
Business Restructuring and M&A

## Overview

Brad Spalding is a trial lawyer who represents and counsels corporate employers regarding labor and employment issues. Brad is certified in labor and employment law by the Texas Board of Legal Specialization, has been designated a “Super Lawyer” by *Texas Monthly* magazine, and is named in *The Best Lawyers in America*®. Brad has been AV-rated by the Martindale-Hubbell Legal Directory since 2006. Brad served on the Labor and Employment Law Exam Commission for the Texas Board of Legal Specialization, and was appointed by the mayor of Houston in June 2012 to serve as chair of the city’s Civil Service Commission. His focus includes discrimination, wage and hour laws, privacy, unfair competition, non-compete and non-disclosure agreements, as well as claims arising under:

- Title VII and Chapter 21 of the Texas Labor Code
- The Age Discrimination in Employment Act
- The Americans with Disabilities Act
- The Fair Labor Standards Act
- The Worker Adjustment and Retraining Notification Act (WARN)
- The Fair Credit Reporting Act

Additionally, Brad helps employers develop practices and programs to maintain and protect confidential information and trade secrets. He also advises clients on leave issues in connection with the Family and Medical Leave Act, advises clients with respect to plant closings and mass lay-offs under the Worker Adjustment Retraining and Notification Act, and advises clients on privacy

issues with respect to background checks under the Fair Credit Reporting Act and best practices for protection of employees' personal identifying information and prevention of security breaches.

Brad likes to spend as much time as possible outdoors, and summited Mt. Rainier in July 1997 and Mt. Kilimanjaro in December 2007. He also finished the Houston and New York City Marathons in January and November 2008, respectively.

## Selected Matters

Brad has tried several cases to juries, judges, and arbitrators:

- United States District Court, Houston, April 2022: defeated class certification for international information technology services company in putative Rule 23 class action lawsuit filed by former IT managers who claimed that the company manipulated the H-1B visa process to discriminate against Americans in favor of South Asians in hiring, promotions and terminations. The denial of class certification led directly to ending four and a half years of litigation.
- Federal Mediation and Conciliation Service, Austin, December 2018: represented county-level fire/search and rescue department in labor arbitration in which the International Association of Firefighters (IAFF) local asserted that the department's probationary firefighters were entitled to the wage multiplier applicable to permanent firefighters under the Collective Bargaining Agreement despite the probationary firefighters not being members of the bargaining unit.
- United States District Court, New Orleans, December 2013: tried case to jury for casino in Americans with Disabilities Act case filed by table games supervisor who alleged that the casino failed to provide a reasonable accommodation for her chronic back pain when it refused her request to perform her duties while seated full time at the craps tables. The plaintiff, a 20-year employee of the casino, was provided the accommodation on a provisional basis for seven months. After the accommodation was rescinded, the plaintiff became permanently disabled and asserted that the casino's insistence that she stand was the cause.
- Federal Mediation and Conciliation Service, Austin, February 2012: represented county-level fire/search and rescue department in labor arbitration in which the IAFF local asserted that the department lacked just cause to terminate a 13-year firefighter who surreptitiously recorded conversations with his union representative and his direct superior in violation of the CBA and department policy.
- United States District Court, Beaumont, August 2011: tried case to bench for national pharmacy chain in lawsuit filed by former pharmacist who alleged that the company retaliated when it terminated him two weeks after he filed a charge of discrimination with the EEOC. In February 2013, Brad successfully argued and defended the judgment before the Fifth Circuit Court of Appeals.
- United States District Court, Houston, August 2009: tried case to jury for interstate trucking company in Title VII gender discrimination and Equal Pay Act case involving a former truck driver who alleged that she was paid less than male drivers performing the same work and who was terminated when she drove her tractor-trailer in violation of an out-of-service order by the Texas Department of Public Safety
- Starr County, Texas, June 2007: tried case to jury for national retail chain and its area manager in breach of contract case involving former store manager who resigned in lieu of demotion after loss prevention investigation revealed numerous policy violations. Plaintiff alleged that he was orally promised lifetime employment by the company's regional vice president

- Bexar County, Texas, January 2006: tried case to jury for pharmacy benefits provider and its human resources manager in workers' compensation retaliation, disability discrimination and defamation case involving former pharmacy technician who was terminated after a drug test, to which she was mistakenly asked to submit in violation of company practice, revealed amphetamine in her blood stream
- Harris County, Texas, April 2005: tried case to jury for interstate trucking company in workers' compensation retaliation case involving former truck driver who had been terminated for unsafe conduct
- United States District Court, San Antonio, February 2005: tried case to jury for national retail hardware chain in workers' compensation retaliation and defamation case involving a former manager who had been terminated after an internal loss prevention investigation
- United States District Court, Beaumont, August 2004: tried case to jury for national retail hardware chain in Title VII race discrimination case involving former assistant manager who had been terminated for poor performance
- Brazoria County, Texas, December 2002: tried case to jury for grocery store in defamation case involving a former manager who had been terminated for failing to properly record sales at his cash register
- United States District Court, Houston, June 2000: tried case to jury for national rental car chain in two-plaintiff race discrimination case regarding failure to promote claims
- Dallas County, Texas, February 1999: tried case to bench for state university in race discrimination, denial of due process and equal protection trial, culminating seven years of litigation after remand from the Texas Supreme Court
- United States District Court, Sherman, January 1999: tried case to jury for state university in a race discrimination case involving a tenured psychology professor alleging equal pay violations
- Galveston County, Texas, May 1998: tried case to bench for medical school dean and administration in constitutional due process, breach of contract and promissory estoppel case involving claims alleged by medical student who failed her clinical assessments and was denied her degree
- Anderson County, Texas, November 1997: tried case to jury for prison warden in FLSA retaliation case

## Professional and Community Affiliations

- Chair, City of Houston Civil Service Commission, 2012-2015
- Commissioner, Labor and Employment Law Exam Commission, Texas Board of Legal Specialization, 2014-2017
- Commissioner, Labor and Employment Law Advisory Commission, Texas Board of Legal Specialization, 2011-2014
- Member, Sons of the American Revolution, Paul Carrington Chapter
- Vice-President, Board of Directors, Literacy Advance of Houston, 2014-2015
- President, Board of Directors, Literacy Advance of Houston, 2016
- Fellow, Texas Bar Foundation
- Member, State Bar of Texas
- Member, Washington State Bar Association
- Member, Houston Bar Association

## Recognition

- Named, The Best Lawyers in America®, 2020-2026
- Awarded, AV® Peer Review Rating, *Martindale-Hubbell*

- Named, Super Lawyer, *Texas Monthly*, 2012-2019
- Named, Rising Star, *Super Lawyers*, 2023

## Education

J.D., Baylor University School of Law, 1992

B.A., University of Texas, Austin, 1989

## Bar Admissions

Texas

## Courts

U.S. Court of Appeals, 5th Circuit

U.S. District Court, Northern District of Texas

U.S. District Court, Eastern District of Texas

U.S. District Court, Southern District of Texas

U.S. District Court, Western District of Texas

## Publications & Press

### **Best Lawyers in America© 2022 Edition Honors More Than 240 Littler Lawyers**

*Press Release*

August 19, 2021

### **Best Lawyers in America© 2021 Edition Honors More Than 250 Littler Lawyers**

*Press Release*

August 20, 2020

### **Best Lawyers in America© 2020 Edition Honors More Than 200 Littler Lawyers; 14 Named Lawyer of the Year**

*Press Release*

August 15, 2019

### **Use of Camera Phones Becomes a Workplace Issue**

*Houston Business Journal*

April 2004

## Events & Speaking Engagements

### **The 2012 Houston Employer Conference**

Houston, TX

August 2, 2012

**Texas, Our Texas: The Latest Employment Law Developments in the Lone Star State**

Littler Mendelson, Houston, TX

August 2, 2012

**Sex Offenders, Terrorists, and Video Resumes: How Far Can You Go to Get Information on Prospective and Current Employees**

Littler Mendelson, Phoenix, AZ

April 2008

**Electronic Evidence: With a Key Stroke the Evidence Disappears...as Does Your Case**

National Employer - Littler Mendelson, Phoenix, AZ

April 2006

**Prosecution and Defense of Employment Cases at Trial**

State Bar of Texas, Houston, TX

November 2004

**Guest Appearance on Topic of Employment Law**

Texas Overnight, KRLD 1080 AM Dallas

December 1996