

ASHCRAFT LAW FIRM

A PROFESSIONAL CORPORATION

REPRESENTING EMPLOYERS IN LABOR, EMPLOYMENT
AND EMPLOYEE INJURY LAW

WILLIAM O ASHCRAFT
BOARD CERTIFIED, LABOR & EMPLOYMENT LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

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FIRM PROFILE

Ashcraft Law Firm is dedicated to representing management in all aspects of labor and employee relations and in employment and employee injury litigation. The firm counsels large and small employers regarding compliance with employment laws; workers' compensation and nonsubscribing employer ERISA and negligence litigation and arbitration; wrongful discharge and other common law employment litigation; discrimination statutes and affirmative action regulations; wage and hour laws; employee safety and health issues; employment issues arising from mergers, acquisitions, and joint ventures; work force reductions and plant closings; preparation of employment contracts and separation agreements; union avoidance and labor relations; and immigration law issues.

The firm also assists clients with day-to-day labor and human resource problems, as well as implementation of corporate labor and employee relations programs, strategies and training. The firm's attorneys litigate in state and federal courts and before various administrative agencies involved in regulating the workplace. Ashcraft Law Firm prides itself on providing rapid, high-quality and cost-efficient services, all designed to help employers craft practical and proactive solutions to their employment and human resources challenges.

Nonsubscription

Ashcraft Law Firm has particular expertise in assisting companies that have chosen to opt out of the Texas workers' compensation system. The firm has extensive experience in providing a wide array of pre-litigation and litigation services to nonsubscribing employers, including:

- investigation of employee injury and employment related claims;
- evaluation of liability and damages and consultation regarding the advisability of settlement of claims and negotiation of settlements;
- representation in arbitration proceedings;
- vigorous litigation defense conducted in a timely and economical manner in state and federal courts against claims for employee injury negligence as well as actions under ERISA for the wrongful denial of benefits, retaliatory discharge, and breach of fiduciary duty; employment discrimination; FMLA violations; and other employment related claims;

- representation in all phases of litigation, including discovery, depositions, motion practice, mediations, trials, and appeals;
- counseling and assisting management and human resources personnel in handling employment issues concerning injured and other employees; and
- managerial, human resources, and employee training programs and presentations.

Workers' Compensation

Ashcraft Law Firm possesses significant expertise in the representation of insurance carriers and private industry clients before the Texas Department of Insurance Division of Workers' Compensation ("DWC") statewide. Our services extend from counseling clients and preparing opinion letters at the outset of a claim to representation at all Division proceedings, as well as the handling of administrative appeals. The firm also offers advice and representation on compliance issues involving the DWC.

Employment Discrimination

A significant part of Ashcraft Law Firm's practice involves representing clients in all types of employment discrimination, harassment, and retaliation matters, including those arising under the Texas Labor Code, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans With Disabilities Act, and various other state and federal statutes. Generally, the firm assists clients with:

- **Discrimination Charge Investigations Before Federal, State and Local Agencies:** The firm works with management to design and conduct a thorough and fair investigation into charges or allegations of discrimination and/or harassment. Our lawyers can conduct the investigations themselves or guide management through the proper steps. We then prepare the necessary position statements, respond to agency inquiries and, where possible, negotiate settlements with the agency or charging party.
- **Discrimination Litigation in Federal and State Courts and Before State and Local Administrative Agencies:** Attorneys at Ashcraft Law Firm have extensive litigation experience, and represent clients in all kinds of discrimination actions, including private suits brought by individuals, class action lawsuits, and government enforcement actions.
- **Arbitration of Employee Claims:** In response to the rising numbers of employee claims, many employers have begun looking to arbitration as a cost-effective alternative for resolving employment-related disputes. Although the objective in arbitration is much the same as in litigation, the rules and strategies are different. Our attorneys have experience with arbitration, in both union and non-union settings. Ashcraft Law Firm can help craft an enforceable arbitration agreement or policy for employers who choose this approach, and can also handle the defense of claims that proceed to arbitration.

Employment and Employee Benefits Litigation

Ashcraft Law Firm has extensive experience in defending common law employment lawsuits for breach of contract, breach of non-competition covenants, wrongful or retaliatory discharge, infliction of emotional distress, defamation, invasion of privacy, and other employment-related torts. Filed in both state and federal courts, often as adjuncts to discrimination lawsuits, such cases continue to multiply as the traditional employment-at-will principles are eroded.

Equally prevalent are claims by employees relating to the provision of job benefits. Ashcraft Law Firm represents employers and plan administrators in litigation arising under ERISA, including claims regarding the denial of benefits, retaliatory discharge and breach of fiduciary duty. The firm also consults with clients regarding, and defends against claims arising from, the continuation coverage requirements under COBRA.

Preventive Employment Counseling

As part of its emphasis on rendering preventive legal services, Ashcraft Law Firm regularly assesses and advises its clients regarding the legal issues and risks involved in proposed individual personnel decisions, especially decisions concerning the hiring and discharge of employees. In addition, the firm counsels clients in the following areas:

- **Personnel Policy Development and Administration:** The attorneys at Ashcraft Law Firm regularly consult with clients concerning the development or revision of human resource policies, such as anti-harassment, substance abuse, performance appraisal, progressive discipline, personal and medical leave, performance evaluation and application procedures. Once these policies are implemented, our attorneys are available to answer more detailed questions or to help human resources personnel or supervisors in particularly difficult situations, such as high-risk terminations or disciplinary actions.
- **Managerial Training:** The firm designs and conducts training sessions for managers and supervisors on virtually all labor and employment law issues, including sexual harassment, performance management, proper steps for hiring and firing, individual supervisor liability, FMLA compliance, union avoidance, and particular requirements imposed upon employers and managers by new legislation and regulations.
- **Americans With Disabilities Act:** The firm regularly assists clients in meeting their obligations under the ADA and its extensive regulatory framework by drafting or revising employment applications, medical leave of absence policies, accommodation and return-to-work policies, job descriptions, and other documents utilized in the employment process. Our lawyers work with management on a day-to-day basis to provide training for supervisory personnel, ensure compliance with accessibility and posting requirements, and formulate methods for providing impaired employees with reasonable accommodation. The firm also defends clients against charges or lawsuits alleging disability discrimination, failure to accommodate, or retaliation for activity protected under the ADA.

- **ADA/FMLA/Workers' Compensation Interplay:** One of the most daunting challenges facing employers is understanding the legal and practical relationships between the ADA, the Family and Medical Leave Act, and the Texas Workers' Compensation Act. There are many situations when the requirements imposed by one of these statutes differ markedly from the obligations imposed by another. Our lawyers work with management, human resources personnel, and supervisors to ensure compliance with all three statutes and their respective regulatory schemes.
- **Affirmative Action Compliance:** The firm offers advice in complying with both federal affirmative action obligations and with state and local contract compliance requirements. The firm also prepares written affirmative action plans, assists clients in compliance reviews, and represents clients in the conciliation process and in enforcement proceedings.

Labor Relations

Ashcraft Law Firm represents management in all aspects of labor relations. This includes administrative and judicial proceedings under the National Labor Relations Act arising out of unfair labor practice charges and representation claims. Our lawyers can assist management in staying union-free, or in working peacefully and productively with organized labor. The firm provides individual supervisors with the training they need to lawfully detect and counter union organizing activity, and we advise management on the many legal and strategic issues that arise during organizing campaigns and representation elections. We can assist with planning and execution of management's response during organizing campaigns, or with efforts to de-certify existing units.

Immigration Law

Increasing numbers of domestic employers have begun looking to foreign countries as a source of talent and manpower. Our firm can assist with the complex and sometimes confusing administrative process required to bring foreign nationals into the U.S. for employment. This includes helping employers to obtain business-related visas, work authorizations, and status adjustments for their alien employees. We can also provide advice and counsel on day-to-day questions concerning immigration compliance, or related issues arising in the context of mergers, acquisitions or other sorts of business transactions.

MEMBERS OF THE FIRM

WILLIAM O. ASHCRAFT, admitted to bar, 1981 Texas. Education: United States Air Force Academy (B.S., with honors, 1975); University of Utah (M.B.A., 1978); Southern Methodist University (J.D., 1981); New York University (LL.M., Labor Law, 1985); Recipient of William C. Klein Award for Outstanding Scholarship in Labor Law. Board Certified, Labor and Employment Law, Texas Board of Legal Specialization. Affiliations: American Bar Association, Labor and Employment Law Section; State Bar of Texas, Labor Law Section; Dallas Bar Association; Texas Association of Business; Texas Association of Responsible Nonsubscribers; Texas Bar Foundation Fellow. Courts Admitted to Practice: U.S. Supreme Court; U.S. Courts of Appeals for the Fifth, Tenth and Eleventh Circuits; U.S. District Courts for the Northern, Southern, Eastern and Western

Districts of Texas; U.S. District Courts for the Eastern/Western District of Arkansas; Courts of the State of Texas. Author: *"Mass Defections Likely If Workers' Comp Decision Upheld,"* Texas Lawyer (1991); *"Trying Your First Labor Arbitration - What You Should Know,"* 35 Air Force Law Review 215 (1991). Co-Author: *"Nonsubscription: An Alternative to Texas Workers' Compensation Insurance Coverage,"* Texas Association of Business Employment Law Handbook (2008); *"Analysis: What ERISA Decision Could Mean to Texas Employers,"* 6 Texas Business Report 14 (1991); *"A Review of the New Texas Workers' Compensation System,"* 21 Texas Tech Law Review 609 (1990).

Mr. Ashcraft has lectured at numerous meetings and seminars on labor and employment law and employee relations matters, including appearances before the University of Houston Law Foundation, Society for Human Resource Management, Texas Business Conference, Dallas Human Resources Association, Texas Hospital Association, Texas Medical Association, Metroplex Hospitality Human Resources Association, Southern Gas Association, Texas Association of Responsible Nonsubscribers, Texas HealthCare Foundation and the Council on Education in Management.

S. LYNN BLAKEMAN, admitted to bar, 1986 Texas. Education: Vanderbilt University (B.A., *magna cum laude*, 1982, Phi Beta Kappa); Emory University School of Law (J.D., 1985). Affiliations: State Bar of Texas, Labor and Employment Law Section; Dallas Bar Association; Texas Trial Lawyers Association. Courts Admitted to Practice: U.S. Court of Appeals for the Fifth Circuit; U.S. District Court for the Northern and Eastern Districts of Texas; Courts of the State of Texas. Author: *"Texas Standard Automobile Liability Policy,"* Current Issues in Texas Auto Insurance (1987). Co-Author: *"Nonsubscription: An Alternative to Texas Workers' Compensation Insurance Coverage,"* Texas Association of Business Employment Law Handbook (2008); *"Workers' Compensation Annual Survey of Texas Law,"* 42 Southwestern Law Journal 77 (1988).

OF COUNSEL

ANITA M. ALESSANDRA, admitted to bar, 1990 Texas. Education: Southern Methodist University (B.B.A., B.S. *summa cum laude*, 1987); University of Pennsylvania Law School (J.D., *cum laude*, 1990); Board Certified, Labor and Employment Law, Texas Board of Legal Specialization; Associate Editor, University of Pennsylvania Law Review (1988-90); Recipient, M.H. Goldstein Memorial Prize for Excellence in the Study of Labor Law. Affiliations: American Bar Association; State Bar of Texas, Labor and Employment Law Section; Dallas Bar Association; Dallas Association of Young Lawyers; College of the State Bar of Texas. Courts Admitted to Practice: U.S. Supreme Court; U.S. Court of Appeals for the Fourth Circuit; U.S. Court of Appeals for the Fifth Circuit; U.S. District Courts for the Northern, Southern, Eastern and Western Districts of Texas; U.S. District Courts for the Eastern/Western District of Arkansas; Courts of the State of Texas. Author: *"When Doctrines Collide: Disparate Treatment, Disparate Impact, and Watson v. Fort Worth Bank & Trust,"* 137 University of Pennsylvania Law Review 1755 (1989). Co-Author: *"Nonsubscription: An Alternative to Texas Workers' Compensation Insurance Coverage,"* Texas Association of Business Employment Law Handbook (2007); *"A Review of the New Texas Workers' Compensation System,"* 21 Texas Tech Law Review 609 (1990); *"To Arms: Employers' Obligations to Reservists,"* Texas Lawyer (1990); *"Analysis: What ERISA Decision Could Mean to Texas Employers,"* 6 Texas Business Report 14 (1991).