

## Nicole Bermel Dunlap

Of Counsel

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### Focus Areas

Discrimination and Harassment  
Leaves of Absence and Disability Accommodation  
Whistleblowing, Compliance and Investigations  
Litigation and Trials  
Labor Management Relations  
Home Health and Home Care  
Healthcare  
Transportation

### Overview

As an experienced advisor licensed in multiple jurisdictions, Nicole Bermel Dunlap has practiced labor and employment law since entering private practice in 2009. Most recently, Nicole served as in-house employment counsel for a Fortune 200 managed care company. She was one of a two-person team advising human resources and other business partners on a range of employment issues including:

- Discrimination and hostile work environment allegations
- Leave and accommodation requests
- Employee terminations
- Noncompete agreements
- Hiring policies and practices
- Other employment policy-related inquiries

Nicole also managed the investigation and early case assessment protocols for threatened and actual employment litigation and directly responded to both federal and state charges of discrimination, including regularly investigating and preparing position statements.

Nicole also has extensive experience as outside counsel in both employment and labor litigation. Coupled with her in-house knowledge, she offers a unique perspective that enables her to appreciate the day-to-day challenges her clients face, to effectively problem-solve potential legal and business solutions, and to develop litigation strategies consistent with each client's unique philosophy. She has defended employers in a variety of different industries, including healthcare, transportation, manufacturing and service industries. Additionally, she has litigated all facets of employment claims including:

- Race, gender, national origin, religion, age, and disability claims
- Whistleblower and other retaliation claims
- Disability and religious accommodations
- Restrictive covenants
- Leave issues

Nicole particularly enjoys partnering with her clients to obtain results-oriented outcomes, including taking the initiative to engage in early case assessment and to drive the litigation consistent with client objectives.

Highly skilled at developing overall case and trial strategies for her clients, Nicole has substantial experience in labor litigation and has first-chaired several labor arbitrations and served as second chair for multiple unfair labor practice bench trials before administrative law judges. In addition, she has gone to trial on issues related to the enforcement of a noncompete agreement in a federal jury trial. In each case, Nicole was an integral part of the trial team, involved in developing trial strategy, managing documents, preparing and questioning witnesses, and preparing necessary written pre- and post-trial persuasive arguments.

Prior to entering private practice, Nicole served as the judicial clerk to the Hon. David R. Farmer of the Tennessee Court of Appeals; interned with the Hon. Diane K. Vescovo, Magistrate Judge for the U.S. District Court, Western District of Tennessee; interned at the National Labor Relations Board, District 26; and served on the editorial board of the *University of Memphis Law Review*. Nicole's broad array of clerkships has given her insight into the judiciary that continues to guide her day-to-day litigation practices.

## Professional and Community Affiliations

- Member, Tennessee Bar Association
- Member, American Bar Association
- Member, Board of Directors, Young Lawyers Division - Memphis Bar Association, 2012-2014
- Assistant coach, Mock Trial Team - White Station High School, 2007-2011
- Member, Board of Directors, YMCA Community Action Program (Y-CAP), 2008-present
- Barrister, Leo Bearman, Sr. Inn of Court

## Recognition

- Awarded, AV® Peer Review Rating, *Martindale-Hubbell*

- Named, Rising Star, *Super Lawyers*, 2016-2019, 2022
- Named, Who's Who Among Students in American Universities and Colleges
- Recipient, CALI Excellence for the Future Awards, *Property II and ADR/Mediation*
- Recipient, Dean's Award for Excellence in Best Memorandum

## Education

J.D., University of Memphis Cecil C. Humphreys School of Law, 2008, *magna cum laude*

B.A., Sewanee, the University of South, 2005, *magna cum laude*

## Bar Admissions

Florida

Tennessee

Mississippi

## Courts

U.S. Court of Appeals, 5th Circuit

Tennessee Supreme Court

Mississippi Supreme Court

U.S. District Court, Northern District of Florida

U.S. District Court, Middle District of Florida

U.S. District Court, Western District of Tennessee

U.S. District Court, Northern District of Mississippi

U.S. District Court, Southern District of Mississippi

## Publications & Press

### **CMS Withdraws COVID-19 Vaccine Mandate**

*Littler ASAP*

June 6, 2023

### **CMS Plans to Unwind Mandatory COVID-19 Vaccination Requirement for Healthcare Employers**

*Littler ASAP*

May 11, 2023

### **Turn Down the Radio: How Florida's Stop WOKE Act Silences EEO & DE&I Efforts**

*ACC Tampa Bay Newsletter*

May 20, 2022

**Fifth Circuit Takes Another Jab at the NLRB - The Fifth Circuit's Reversal of the NLRB Decision in Murphy Oil Delivers a Hard Upper Cut to the Board**

*Hillsborough County Bar Association Lawyer*

January-February 2016

**Supreme Court "Delivers" New Life to Pregnancy Discrimination Claims in Young v. UPS**

*Florida Bar Journal*

November 2015

**What to Expect When Employees Are Expecting – Managing Pregnant Employees in the Healthcare Setting**

*American Health Lawyer's Newsletter*

May 2015

**The Family and Medical Leave Act**

*American Bar Association Section of Labor and Employment Law*

2013 Cumulative Supplement

**New NLRB Election Rules are Short Lived**

*HR Professionals of Greater Memphis*

June 2012

**Annual Review of Developments in Business and Corporate Litigation**

*Sixth Circuit Updates in Labor and Employment Law, American Bar Association*

2010-2012 editions

**A Good Time for Employers to Audit ADA Policies and Practices: The Effect of Final ADAAA Implementing Regulations**

*Employment Practices Liability Consultant*

Summer 2011

**Rule 23 Class Action and FLSA Collective Action Update**

*Annual Labor and Employment Law Forum*

2011

**Supreme Court and Sixth Circuit Updates**

*Labor and Employment Section Annual Program*

2009-2011

## Speaking Engagements

### **Help Wanted: Navigating Post-Pandemic Remote and Hybrid Work Arrangements and Florida's Stop WOKE Act Challenges**

ACC Tampa Bay

June 16, 2022

### **Two Years Later . . . Managing Remote Work Requests**

April 1, 2022

### **Conducting Investigations in a Virtual World**

ACC Webinar

November 19, 2020

### **When an Employee's Behavior Crosses the Line**

Greater Memphis Chamber

September 23, 2014

### **Top 10 Things Every Lawyer Needs to Know About Labor & Employment Law**

General Practice 2014: Memphis Fast Track - Tennessee Bar Association, Memphis, TN

August 2014

### **Top 10 Things Every Lawyer Needs to Know About Labor & Employment Law**

Memphis Bar Association, Memphis, TN

July 2013

### **Workplace Violence & Evolving Gun Laws in Tennessee**

Memphis Bar Association, Memphis, TN

July 17, 2012

### **Best Practices for Effective Investigations**

Sterling Education Services, Inc., Memphis TN

September 2011

## Books & Book Chapters

- *The Family and Medical Leave Act, 2013 Cumulative Supplement, Section of Labor and Employment Law - American Bar Association, contributing author*
- *Sixth Circuit Updates, Annual Review of Developments in Business and Corporate Litigation, American Bar Association, 2010-2012 Eds.*