

Q&A With Baker Donelson's David Gevertz

Law360, New York (April 02, 2013, 12:56 PM ET) -- David Gevertz is a shareholder in the Atlanta office of Baker Donelson Bearman Caldwell & Berkowitz PC. He is vice chairman of the firm's labor and employment department. Gevertz defends organizations accused of violating discrimination, wage and hour, whistleblowing, privacy and benefits laws. He also litigates employment contract and restrictive covenant disputes, and he routinely leads sensitive internal investigations and reductions in force. Gevertz also represents financial, housing, testing and hospitality-based institutions sued for violating public accommodations, fair housing, fair testing and fair lending laws. He is frequently quoted in the media on a variety of topics including social media, health care and leave, hiring and termination concerns, and employment trends.

Q: What is the most challenging case you have worked on and what made it challenging?

A: Early in my legal career, I was placed in charge of defending a city's police force in a race discrimination case. Part of the plaintiffs-officers' claims was that the white officers on the force were engaged in racial profiling of African-American citizens, which created a hostile environment for the minority officers.

The team and I quickly found ourselves not only defending the merits of the case, but also waging a battle with the U.S. Department of Justice, which launched its own investigation into the allegations. The media began skewed coverage of the case, which impacted the parties' filings. The city council and mayor requested routine briefings, as did the local Fraternal Order of Police. After the case ended and I caught my breath, I came to appreciate the full extent of the nonlegal education I received from working on that case.

Q: What aspects of your practice area are in need of reform and why?

A: Which ones aren't! The dual-stage collective action process, which has such a low barrier for conditional certification, is especially problematic, as it drives a large number of defendants in cases with little to no merit to settle solely on account of the cost of defense. Frankly, much of the Fair Labor Standards Act needs to be updated to reflect today's workplace.

Q: What is an important issue or case relevant to your practice area and why?

A: The heightened pleading standards issued by the Supreme Court in the Twombly and Iqbal cases six years ago have proven enormously useful to defendants when responding to bare-bones complaints and shotgun pleadings. With those two cases, the Supreme Court rejuvenated the motion to dismiss as an important tool for defendants seeking to rein in the cost of defense.

Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.

A: I had the pleasure of working with a number of great attorneys, foremost among them Pat Shea of Paul Hastings. I remember watching him take the deposition of a smart but belligerent plaintiff represented by an equally argumentative attorney in a gender discrimination case. Without ever raising his voice or losing his cool, he led her into providing testimony that made her appear every bit as ridiculous on a cold transcript as she was in real life. We ended up prevailing on summary judgment with a lengthy and devastating footnote from the judge eviscerating the plaintiff's credibility. It was wonderful to watch him in action.

Q: What is a mistake you made early in your career and what did you learn from it?

A: During my first month of practice, I turned in a research memorandum on an intricate area of the law which I had spent days researching and drafting. The only trouble was, I spelled the assigning partner's name wrong at the top of the memo. I arrived at work the next morning to an irate voicemail message from the partner referencing the misspelling but not the legal analysis. From that experience, I learned two valuable lessons. First, treat your coworkers (and especially your superiors) like internal clients. Second, even the best work product can be overshadowed by small mistakes, so proof read everything!

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