



## MATTHEW THOMAS DEFFEBACH

Partner

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**PRACTICES:** Labor and Employment, Litigation, Occupational Safety and Health Act (OSHA) and Workplace Disasters, Employment Litigation, Government Audits and Investigations, Social Media, Wage and Hour Litigation, Class Action Defense, Immigration; **INDUSTRIES:** Retail; **TRENDING ISSUES:** Coronavirus COVID-19

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### HOUSTON

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### ORANGE COUNTY

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### EDUCATION AND CLERKSHIPS

- J.D., University of Houston Law Center, 1999
- B.A., Political Science and Speech Communication, Trinity University, 1993, *cum laude*

### ADMISSIONS

- Texas

### COURT ADMISSIONS

- U.S. Court of Appeals for the Fifth Circuit
- U.S. District Court for the Southern District of Texas
- U.S. District Court for the Northern District of Texas
- U.S. District Court for the Eastern District of Texas
- U.S. District Court for the Western District of Texas

Matthew Deffebach is a partner in the firm's Houston and Orange County offices, and Matt is the chair of the firm's OSHA and Workplace Disasters Practice Group. He assists clients in numerous industries and uses what he has learned with his trial and overall experience to help clients understand how to utilize preventative measures to minimize claims and reduce exposure to litigation. Matt is board certified in labor and employment law by the Texas Board of Legal Specialization and is recognized in *Chambers USA*, *Chambers and Partners*, for labor and employment in Texas.

As an employment litigator, he has successfully handled hundreds of agency proceedings, arbitrations, and lawsuits in state and federal court concerning ERISA, discrimination, harassment, retaliation, leave and accommodation issues, ADA public access, wage and hour (including FLSA collective actions), executive compensation, wrongful termination, privacy matters, social media, and others. He also counsels clients on these areas and other aspects of employment law, and is frequently enlisted to conduct workplace investigations based on employee complaints of misconduct. He is a frequent speaker, having conducted numerous trainings for clients on employment law compliance and appearing at dozens of seminars and conferences. Matt was previously the chair of the firm's Labor and Employment Practice Group.

As an OSHA litigator, he has appeared in more than 30 states handling OSHA matters and is entering his 16th year as National OSHA counsel for The Home Depot. He is familiar with the state OSHA programs, particularly with California where he has handled numerous contested cases involving Cal/OSHA. Matt has also successfully defended clients in OSHA administrative trials, including recent trials on PPE in California, Powered Industrial Trucks in Utah, Recordkeeping in Iowa, and other regulatory matters in four separate trials in California.

As a general commercial litigator, Matt has handled contract disputes and a number of non-subscriber negligence lawsuits/arbitrations. He also routinely assists on misappropriation of trade secret matters and unfair competition claims regarding non-competition and non-solicitation agreements. Matt was previously a co-chair of the firm's Litigation Department.

In 2010, *Law360* by Portfolio Media, Inc. named him a "Rising Star" and one of ten employment lawyers under 40 to watch. Thereafter, he received the 2013 International Law Office (ILO) and Lexology Client Choice award as the sole recipient in the Employment and

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Labor category in Texas. He has been recognized by *Benchmark Litigation* (Euromoney Institutional Investor PLC) as a "Labor & Employment Star – South (2019-2021) and a Labor & Employment Star – West (2019)."

### Selected Client Representations

#### Employment Litigation

- *Lagos, et al. v. Cogent Communications* (S.D. Tex. 2014) (granting Motion to Decertify nationwide collective action)
- *Ihegwood v. Harris County Hospital District*, 929 F. Supp. 2d 635 (S.D. Tex. 2013) (granting summary judgment on Title VII and ADA claims)
- *Peterson Group v. PLTQ Lotus Group*, 417 S.W.3d 46 (Tex. App. – Houston [1st Dist.] 2013) (reversing on alter ego finding)
- *Grenado v. White Cap Construction*, (El Paso County Court of Law 2012) (granting summary judgment on Chapter 21 discrimination and retaliation claims)

#### Litigation

- Defense of breach of contract
- Defense of ERISA denial of benefits
- Defense of non-subscriber negligence
- Defense of fraud, breach of contract, and breach of fiduciary duty
- Defense of non-subscriber negligence

#### Occupational Safety and Health (OSHA) and Workplace Disasters

- Assisted a client with an investigation into a five-alarm fire, which caused over \$35 Million in damages
- Successfully defended clients in OSHA administrative trials including fatality matter in Texas, PSM inspection in Texas, fall protection case in California, state-wide machine guarding case in Maryland, and PPE matter in California
- Defended a national employer in two separate OSHA proceedings where the Department of Labor withdrew its citations entirely on the eve of trial in both matters

#### Professional Recognition

- Recognized in *Chambers USA*, Chambers and Partners, for Labor & Employment (Texas), 2019-2020.
- Named a "Labor & Employment Star," *Benchmark Litigation*, Euromoney Institutional Investor PLC, 2019-2021.
- Recognized by *The Best Lawyers in America*, Woodward/White, Inc., in Litigation - Labor and Employment, 2015-2021.
- Included in the *Houston Business Journal's* 2015 Law Guide of Houston's Largest Law

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- Firms and Their Top Lawyers, American City Business Journals, 2015.
  - Selected for Inclusion in *Texas Super Lawyers*, Thomson Reuters, in Employment and Labor, 2010-2020.
  - Received the 2013 International Law Office (ILO) and Lexology Client Choice award as the sole recipient in the Employment and Labor category in Texas, Globe Business Publishing Ltd, 2013.
  - Named a "Rising Star" and one of 10 employment lawyers under 40 to watch, *Law360* by Portfolio Media, Inc., 2010.
  - Selected for inclusion in *Texas Super Lawyers – Rising Stars Edition*, Thomson Reuters, 2005-2010.
  - Certified by the Texas Board of Legal Specialization as a labor and employment law specialist.

#### Professional and Community Activities

- Fellow, Texas Bar Foundation
- Trinity University Alumni Association
- American Society of Safety Engineers
- Retail Industry Leaders Association
- American Bar Association OSHA Subcommittee

#### Selected Publications and Speeches

- "The Impact of a Biden Administration on Texas Businesses," presenter, *The Texas Lawbook* webinar, March 2, 2021.
- "OSHA Issues Revised COVID-19 Guidance for Workplaces," presenter, myLawCLE, February 22, 2021.
- "Strange Bedfellows: The Interplay Between CAL and Federal OSHA and OSHA's Short-Term Agenda," co-presenter, RILA's Asset Protection Webinar Series, August 13, 2020.
- "Legal Aspects of Safety and Effective Communication in Legal Proceedings," presenter, The Center for Risk Management at College of the Mainland, May 29, 2020.
- "Employers Providing Face Masks Should Review Their Health and Safety Obligations," co-author, LexisNexis, April 6, 2020.
- "COVID-19 and OSHA," co-author, LexisNexis, March 18, 2020.
- "CAL OSHA, OSHA, and Labor and Employment Update," presenter, National Armored Car Association's Annual Meeting, San Diego, California, October 1, 2019.
- "The Lawyer, the Witness and the War Room: Effective Communication and Preparation in Litigation," presenter, National Safety Council's 2019 Congress & Expo, San Diego, California, September 10, 2019.
- "Understanding Ethical Responsibilities and Legal Liabilities in Safety," presenter, The Center for Risk Management at College of the Mainland, La Marque, Texas, March 22, 2019.
- "OSHA Updates for Employment Attorneys," presenter, Houston Bar Association's Labor & Employment Section's Lunch Meeting, Houston, Texas, March 18, 2019.
- "How to Avoid Turning Your Investigation Into a Liability," presenter, Safety 2018, the

- American Society of Safety Engineers' Professional Development Conference, San Antonio, Texas, June 5, 2018.
- "Successfully Navigating Safety-Related Investigations and Legal Proceedings," presenter, The Center for Risk Management at College of the Mainland, La Marque, Texas, March 2, 2018.
  - "The Big Event: The OSHA Trial," presenter, The American Society of Safety Engineers' Safety 2017 Professional Development Conference & Exposition, Denver, Colorado, June 20, 2017.
  - "What Information Can an Employer Legally and Ethically Use in Making Employment Decisions," presenter, The Gulf Coast Symposium on HR Issues, Houston, Texas, May 10, 2017.
  - "Legal Aspects of Safety," presenter, The Center for Risk Management at College of the Mainland, La Marque, Texas, April 20, 2017.
  - "Helping Employer Clients Stay in Compliance with the Ever-Changing Realm of Employment Law," Chapter author, Aspatore Books 2016-2017 edition of *Complying with Employment Regulations: Leading Lawyers on Analyzing Legislation and Adapting to the Changing State of Employment Law*.
  - "Personal and Corporate Safety-Related Liability: Who and What can be Sued?" presenter, November ASSE & AIHA Chapter Meeting, Houston, Texas, November 3, 2016.
  - "We Have to Do WHAT? Recent Developments in OSHA Law and Practical Advice for Addressing Them," presenter, 2016 Asset Protection Summer Webinar Series - Retail Industry Leaders Association, webinar, August 30, 2016.
  - "The Relationship Between Legal and Safety." presenter, National ASSE Conference, Atlanta, Georgia, June 27, 2016
  - "We Have to Do WHAT? Recent Developments in OSHA Law and Practical Advice for Addressing Them." presenter, Retail Asset Protection Conference, Dallas, Texas, April 18, 2016.
  - "Personal and Corporate Safety-Related Liability: Who and What Can Be Sued?" presenter, 2016 Indiana Safety and Health Conference & Expo, Indianapolis, Indiana, March 21, 2016.
  - "More Claims, More Problems: Ethical Issues in Workplace Investigations," presenter, Ethics in Employment Law, Houston, Texas, October 29, 2015.
  - "Ethics in Workplace Investigations," presenter, Ethical Principles for Corporate Counsel in Energy, Houston, Texas, October 15, 2015.
  - "OSHA Update 2015," presenter, Haynes and Boone, Houston, Texas, August 19, 2015.
  - "OSHA Law Update: Recent Activity, New Rules and Preserving the Attorney-Client Privilege," presenter, Retail Industry Leaders Association (RILA) Retail Asset Protection Conference, Orlando, Florida, May 4, 2015.