

## Charles S. Mishkind

### SERVICE AREAS

#### Business

- Employment + Labor
  - Class, Collective Action + Complex Employment Litigation
  - Employment Benefits + Tax Issues
  - Employment Litigation + Dispute Resolution
  - Employment Practices Counseling: Preventive Employment Relations

#### Litigation + Trial

- Class + Collective Actions
- Employment + Labor
  - Class, Collective Action + Complex Employment Litigation
  - Employment Benefits + Tax Issues
  - Employment Litigation + Dispute Resolution
  - Employment Practices Counseling: Preventive Employment Relations

#### Governments + Nonprofits

- Employment + Labor
  - Class, Collective Action + Complex Employment Litigation
  - Employment Benefits + Tax Issues
  - Employment Litigation + Dispute Resolution
  - Employment Practices Counseling: Preventive Employment Relations



### Principal

#### Grand Rapids

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For more than 30 years, Charles S. Mishkind has specialized in labor, employment and benefit law and related litigation. Most of his current practice involves complex employment and benefit class action litigation in federal court.

*"My philosophy is to work as a team with the company's representatives and provide top-quality legal services on a cost-effective, timely and ethical basis. The ultimate goal is to manage disputes in a way that best serves the company's interest."*  
Charles S. Mishkind

### EXPERIENCE

Charles is one of only five lawyers in the country who is a Fellow in the American College of Labor Lawyers as well as the American College of Benefit Counsel. He has been credited as being one of the prime developers of the after-acquired evidence defense and alternative dispute resolution for non-union employees as well as being a leader in retiree health insurance benefit litigation and the development of the law of retaliation, generally and specifically with respect to Section 510 of ERISA.

Cases dealing with these subjects includes the *UAW/Mayfield v Boeing Company*, *Sweeney v Ameritech*, *Mahoney v GTE*, *Kellogg v Sabhlok*, *Bromley v Saks* and *Peach v Valero Energy*.

### PROFESSIONAL ACTIVITIES

- American College of Labor and Employment Lawyers, Fellow
- American College of Benefits Counsel, Fellow
- American College of Employee Benefits Counsel, Charter Fellow
- Litigation Counsel of America, Fellow

## Charles S. Mishkind

### EDUCATION

- New York University School of Law, LL.M. Labor Law
- University of Arizona Law School, J.D.
- University of Arizona, B.A.

### BAR ADMISSIONS

- Michigan

### COURT ADMISSIONS

U.S. Supreme Court

U.S. Court of Appeals

- Sixth Circuit
- Seventh Circuit
- Ninth Circuit

U.S. District Courts

- Eastern District of Wisconsin
- Eastern District of Michigan
- Western District of Michigan
- Northern District of Illinois
- Southern District of Illinois
- Northern District of Indiana
- Southern District of Indiana
- District Court of Maryland
- Northern District of Tennessee
- Middle District of Tennessee
- Southern District of Mississippi
- Northern District of Mississippi
- Southern District of Alabama

- National Employment Law Institute Advisory Board
- American Employment Law Council
- U.S. Chamber of Commerce Labor Law Committee
- National Retail Federation Committee on Employment Law
- Co-chair, National Finance Industry Labor Law Committee
- Former Chairman, ABA/EEOC Labor Section Liaison Committee, Michigan Office
- State Bar of Michigan, 1981-present Labor Section
- American Bar Association, Labor and Litigation Sections; Equal Employment Opportunity Subcommittee; Individual Employee Rights Subcommittee

### HONORS + AWARDS

- Guide to the World's Leading Labour and Employment Lawyers, one of the World's Top 25 Labor and Employment Law Lawyers, 2007-present
- Who's Who Legal, International Who's Who of Business Lawyers, one of the top ten labor & employment lawyers in the world
- Michigan Super Lawyers, Employment Litigation Defense, 2008-present
- Chambers USA: America's Leading Business Lawyers, Labor & Employment, 2007-present
- Best Lawyers in America, Labor and Employment Law 2011; Employment Law-Management and Litigation-Labor and Employment 2012
- Who's Who Legal-The International Who's Who of Management Labour and Employment Lawyers

### CIVIC, CULTURAL + SOCIAL ACTIVITIES

- Grand Rapids Urban League, Board of Directors, 1988-92; NAACP Legal Advisor, 1988-91

### TEACHING EXPERIENCE

- Davenport College, Grand Rapids, Michigan, Past Adjunct Professor of Labor and Employment Relations

## PUBLICATIONS

"Back to the Future: Defending against Discrimination Claims Based on a Continuing Violation Theory," *Employee Relations Law Journal*, Vol. 20, No. 3, Winter 1994-95.

"Update on Recent Trends in the Law: After-acquired Evidence, Fraudulent Joinder, and Alternative Dispute Resolution," *Employee Relations Law Journal*, Vol. 20, No. 1, Summer 1994

"Joinder of Individual Defendants in Employment Litigation: Is Removal Still Possible?" *Employee Relations Law Journal*, Vol. 19, No. 1, Summer 1993.

"Sexual Harassment Hostile Work Environment Class Actions: Is There Cause for Concern?" *Employee Relations Law Journal*, Vol. 18, No. 1, Summer 1992.

"Beware: Contempt of Court Civil Rights Enforcement Proceedings Are on the Rise," *Employee Relations Law Journal*, Vol. 17, No. 3, Winter 1990.

"How the Supreme Court's Decision in *Donnelly v Yellow Freight* May Affect Title VII Claims," *Employee Relations Law Journal*, Vol. 16, No. 2, Fall 1990.

"Implications of FASB's Exposure Draft on Employer's Accounting for Post-retirement Non-pension Benefits," *Tax Management Compensation Planning Journal*, Vol. 18, No. 5, May 1990

"The Controversy over the Duration of an Employer's Obligation to Continue to Provide Health and Welfare Benefits to Retirees: A Management Perspective," 36th Annual Labor Relations Institute, Chapter 5 of the Southwestern Legal Foundation, 1990.

"Protected Rights under Section 510 of ERISA: Avoiding 'Something for Nothing,'" *Benefits Law Journal*, Vol. 1, No. 3, Fall 1988.

"Employee Stock Ownership Plans: Fables and Facts," *Employee Relations Law Journal*, 29 (1985).

"Overview of National Origin Employment Discrimination," *Michigan Bar Journal*, September 1984.

Chapter editor and contributing writer

Column author on employment litigation matters

**SPEECHES**

"Discrimination and Employee Benefits," 2004 Midwinter ABA Section of Labor and Employment Law Equal Employment Opportunity Subcommittee

"Options for the Responsible Employer: Possible Legal Roadmaps to Challenge Organized and/or Threats of Litigation," 2003 The American Employment Law Council Eleventh Annual Conference

"A Review of Significant Recent Fair Employment, Benefit and Labor Law Decisions," 2003 40th Annual Midwest Labor and Employment Law Seminar

"The Controversy Over the Duration of an Employer's Obligation to Continue to Provide Health and Welfare Benefits to Retirees," 2002 ABA Equal Employment Opportunity Committee Midwinter Meeting

"Motion Practice in Employment Litigation Cases," 2002 National Employment Law Institute 22nd Annual Employment Law Litigation

"Employee Benefits Litigation," 2002 National Retail Federation 2002 Fall Meeting

"The Shrinking Workforce: A Case Study of Downsizing, Layoffs and RIFs," 2002 American Employment Law Council 10th Annual Conference

"Defending the Big Case--Strategies--Class Certification--Discovery--Media Consideration--Employee Communications--Dealing with Opposing Counsel--Settlement," 2002 Southwest Legal Foundation 49th Annual Labor and Employment Law Conference

"Motion Practice in Employment Law Cases," 2002 National Employment Law Institute Annual Advanced Employment Litigation Program

"The Shrinking Workforce," a presentation on the practical and legal issues associated with a reduction-in-force involving plant closures, relocation of work, and Section 510 of ERISA, March 2002 Midwinter Meeting of ABA EEO Subcommittee

"Case Study: The Shrinking Workforce," March 2002 Equal Employment Opportunity Committee Midwinter Meeting

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"The Big Risk: Class Actions and Pattern Cases and Practice Cases,"  
Practising Law Institute, 30th Annual Institute on Employment Law

The Southwestern Legal Foundation 48th Annual Institute on Labor  
and Employment Law, October 2001

Professional Liability Underwriting Society's LPL-EPL Insurance  
Issues Symposium, October 2001

"Employment Issues in a Changing Corporate World," Kent College  
of Law, Chicago, 2001

Glasser LegalWorks 2001 Class Action Program, Co-chairman and  
speaker

"The Big Risk: Class Actions and Pattern Cases and Practice Cases,"  
Glasser LegalWorks Class Action Program, September 2000

"The Big Risk: Class Actions and Pattern Cases and Practice Cases,"  
Practising Law Institute, 29th Annual Institute on Employment Law,  
October 2000

The Southwestern Legal Foundation 47th Annual Institute on Labor  
and Employment Law, October 2000

"The Big Risk: Class Actions and Pattern Cases and Practice Cases,"  
Practising Law Institute, 28th Annual Institute on Employment Law,  
November 15-16, 1999

"The EEOC as Plaintiff and Intervenor," The Seventh Annual  
Conference of the American Employment Law Council, October 1999

"Strategies for Defending Class Actions/Big Cases--Media  
Problems--Employee Communications--Class  
Certification--Discovery--Motions in Limine--Dealing with Opposing  
Counsel, EEOC, et al." The Southwestern Legal Foundation 46th  
Annual Institute on Labor and Employment Law

"Keeping Pace with Complex Employment Class Actions," 2nd Annual  
National Forum of Employment Practices Liability, Chicago, Illinois,  
July 1999

"Unique Aspects of Sexual Harassment Litigation," PLI Equal  
Employment Litigation Program, New York, New York, June 1999

"Communicating with the Public and Class Members Before and After  
Class Certification," Employee Rights and Responsibility Committee,  
Stuart Island, Florida, March 1999

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National Finance Industry Employment Law Committee, Co-chair

"Employee Benefits Litigation," National Employment Law Institute (NELI), Chicago, Illinois, November 1998

"The Big Risk: Class Actions and Pattern and Practice Cases," 27th Annual Employment Law Institute, Chicago, Illinois, November 1998

"Sexual Harassment and Other Employment Issues" Rethinking Workplace Practices After the Recent Supreme Court Term," Chairman and Speaker, Classer LegalWorks, New York, New York, October 1998

"Reverse Discrimination/Affirmative Action Litigation Update: Where is it Going?" ABA Section of Labor and Employment Law Annual Meeting, Toronto, Canada, July-August 1998

"Employment Discrimination Law Update," National Employment Law Institute, 22nd Annual Conference, San Francisco, California, July 1998; Chicago, Illinois, July 1998; Washington, D.C., August 1998

"Litigating Employment Discrimination Class Action Cases," Practising Law Institute, New York, New York, June 1998

"The EEO Class Action in the New Millennium," June 1998

"Strategic Litigation and Settlement Techniques in Employment Law Cases," 15th Annual Upper Midwest Employment Law Institute, St. Paul, Minnesota, May 1998

"Litigation and Settlement of Complex Employment Class Actions," Glasser LegalWorks, San Francisco, California, April 1998

"Selecting and Using Experts in ADA Cases," ABA National Institute, Americans with Disabilities Act, February 1998

"Defending a Company's Reasonable Accommodation under an ADA Case," Practising Law Institute, Litigating Employment Discrimination Cases, June 1997

"Strategies for Settling/Winning Cases before Trial--Discovery--Motions in Limine--Protective Orders--Offers of Judgment--Summary Judgment--Etc.," The Southwestern Legal Foundation, October 1996

"After Varsity: Employee Benefits Plans and ERISA Litigation--Fiduciary Duties," Glasser LegalWorks, June 1996

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"Employee Benefits Litigation," National Employment Law Institute, May 1996

"After-acquired Evidence," ABA Employee Rights and Responsibilities Subcommittee, March 1996

"Employee Benefits Litigation," National Employment Law Institute, November 1995

"ADR-Growing Use of Mediation/Arbitration to Handle Employment Claims/Case," The Southwestern Legal Foundation, October 1995

"A Management Perspective of the Use of 'After-acquired' Knowledge of Either Pre-hire Misrepresentation or Post-hire Misconduct in Employment Litigation after McKennon," ABA Annual Meeting, August 1995

"Retiree Rights Litigation," National Employment Law Institute on Employment Litigation, June 1995

"Recent Developments in Michigan and Federal Employment Law," third Annual Human Resource Conference & Expo sponsored by the Michigan Chamber of Commerce, June 1995

"Settlements--The Right Time--The Right Amount--The Right Language," ABA Employee Rights and Responsibilities Subcommittee Midwinter Meeting, March 1995

"Litigation under Section 510 of ERISA," and "After-acquired Evidence," New York University's 47th Annual National Conference on Labor, June 1994.

"Update on Employment Discrimination and Litigation," and "Negotiating and Drafting Settlement Agreements," Michigan ICLE, June 1994.

"Litigating Glass Ceiling Cases," National Employment Law Institute, May 1994.

"Employee Benefits Litigation," The Corporate Bar Association of Westchester and Fairfield, Inc., May 1994.

"Retiree Insurance Benefits and Early Retirement Incentive Plan Litigation," ABA EEO Subcommittee Midwinter Committee Meeting, Tucson, Arizona, March 1994.

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"Litigation under Section 510 of ERISA, and "After-acquired Evidence, New York University Law Center's 47th Annual National Conference on Labor (1994).

"The Controversy over an Employer's Obligation to Continue to Provide Post-retirement Benefits," Prentice Hall Second Annual Employment Litigation Institute, San Francisco and New York City, February 1993.

"Alternative Dispute Resolution of Employment Issues," ABA National Institute Section of Labor and Employment Law, Northwestern University School of Law, Chicago, October 1992.

"Defending Claims under ADA," Michigan ICLE Seminar, Dearborn, Michigan, 1992.

"Establishing and Administering Policies against Sexual and Racial Harassment," Prentice Hall's New Civil Rights Act of 1991 and Employment Discrimination Seminar, Chicago, January 1992.

"Section 510 and Retiree Insurance Litigation," Prentice Hall's Annual Institute on Employment Law, San Francisco and New York City, June 1991.

"Impact of ERISA on EEO Laws," and "Retirement Insurance Litigation Update," ALI-ABA Advanced ERISA Litigation Program, Phoenix, February 1991.

"Reductions-in-Force," "OWBPA," and "Section 510 of ERISA," Practising Law Institute's Annual Employment Litigation Program, New York City, January 1991.

"Impact of ERISA on EEO Laws," ABA/EEO Midwinter Conference, Naples, Florida.

"Protected Rights under Section 510 of ERISA: Avoiding 'Something of Nothing,'" Defense Research Institute's ERISA Litigation Seminar, New York City, November 1990.

"The Controversy over an Employer's Obligation to Continue to Provide Insurance Benefits to Retirees," ALA/ABA Advanced ERISA Program, Phoenix, March 1990.

"The Controversy over an Employer's Obligation to Continue to Provide Insurance Benefits to Retirees," Investment Management Institute and Forbes Seminar, New York City, January 1990.

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"Annual Update on Benefit Administration and Litigation," Practising Law Institute's Employment Litigation Program, January 1990.

"Protected Rights under Section 510 of ERISA: Avoiding 'Something for Nothing,'" Annual Equal Employment Advisory Council Meeting, Washington, D.C., 1989.

"Establishing Alternative Dispute Resolution Procedures, 26th Annual Labor and Employment Conference," University of Arizona.

"The Duration of an Employer's Obligation to Provide Welfare Benefits to Retirees," Annual Bell System In-house Labor Lawyers' Conference, October 1989.

"Recent Developments in Employee Benefit Litigation," Practising Law Institute's Annual Employment Litigation Program, New York City, April 1988.

"The Duration of an Employer's Obligation to Provide Welfare Benefits to Retirees," Executive Enterprises' Seminar on Age Discrimination, Wrongful Discharge, and Employee Benefit Litigation, Chicago and New York City.

"Employee Benefit Administration and Litigation," Annual Equal Employment Advisory Council Meeting, Washington, D.C., 1987.

"The Duration of an Employer's Obligation to Provide Welfare Benefits to Retirees," ABA Midwinter Meeting of the EEO Subcommittee, Palm Springs, 1986.

"Internal Dispute Resolution Procedures as an Alternative to the Armorplate/Litigation Approach," Midwinter Meeting of the Employee Rights Subcommittee of the ABA Labor Section, 1986.

Annual Meeting of the Affirmative Action Section of the American Colleges and Universities, Oklahoma City.

In addition, annually chairs a two-day seminar presented twice yearly by the Council on Education in Management, which provides an annual update of significant labor and employment matters affecting Michigan employers, as well as a similar seminar in Grand Rapids, Michigan.

## SEMINARS + EVENTS

- Employee Reductions and Plant Closings: Legal Considerations in the United States, Mexico, Canada, China, India and Europe - Grand Rapids
- Employee Reductions and Plant Closings: Legal Considerations in the United States, Mexico, Canada, China, India and Europe - Troy

## NEWS

- Miller Canfield Lawyers Recognized in International Who's Who Guide for Labour and Employment Law
- Miller Canfield Attorney Named One of the World's Top Labor and Employment Lawyers