

FRANK L. DAY JR.

Partner / Memphis, Nashville

fday@fordharrison.com / P: 901-291-1529



Frank Day devotes his practice to helping clients accomplish business objectives through employment law litigation and counseling.

Frank has successfully represented national retailers, health care providers, and various other public and private employers in matters arising under the FLSA, Title VII, the ADA, FMLA, ADEA, USERRA, and various other federal and state statutes.

He has extensive litigation experience in many different forums, and he has helped many clients prevail on summary judgment and at trial. Frank frequently serves as a faculty member at employment law seminars, and he has published articles in the *ABA Employment Law Newsletter*, the *Tennessee Bar Journal*, and the *University of Memphis Law Review*. He graduated from the University of Memphis School of Law with honors where he also received special recognition for his performance in moot court and mock trial competitions.

Representative Experience

- » Prevailed in Alaska federal court in FLSA lawsuit based on initial motion to dismiss.
- » Successfully defeated FLSA collective action filed in Arkansas with an initial motion to dismiss.
- » Prevailed in FLSA lawsuit filed in Tennessee by demonstrating to Plaintiff's counsel that the claim lacked merit, securing voluntary dismissal.
- » Secured summary judgment on behalf of national retailer in Missouri federal court in lawsuit brought under the ADA, FLMA, and the Missouri Human Rights Act.
- » Defended an automotive service provider in an FLSA lawsuit alleging a nationwide collective action on behalf of more than 17,000 employees. After defeating conditional certification of the collective action, negotiated a favorable settlement for client.
- » Initiated a lawsuit in federal court to enforce a non-compete agreement and developed evidence in discovery that

EDUCATION

- » University of Memphis School of Law (J.D., *cum laude*, 2006)
- » University of Mississippi (B.A., 2003)

BAR ADMISSIONS

- » Tennessee
- » Kentucky
- » Arkansas

COURT ADMISSIONS

- » U.S. Court of Appeals for the Sixth Circuit
- » U.S. District Court for the Western District of Tennessee
- » U.S. District Court for the Middle District of Tennessee
- » U.S. District Court for the Eastern District of Arkansas
- » U.S. District Court for the Western District of Arkansas
- » Supreme Court of Tennessee
- » Supreme Court of Arkansas
- » Supreme Court of Kentucky
- » U.S. Court of Appeals for the Eighth Circuit

supported additional claims for civil conspiracy, unlawful competition, intentional interference with business relationships, and misappropriation of trade secrets. After filing an amended complaint to bring claims against eight separate defendants, negotiated a favorable settlement in the amount of \$450,000.

- » Secured a temporary restraining order and a preliminary injunction on behalf of an automobile manufacturer to prevent a former employee from utilizing or disseminating confidential and proprietary company information.
- » Successfully defeated a discrimination lawsuit brought against a national retailer by exploiting technical defect contained in a service document, which resulted in dismissal, and plaintiff was unable to refile the lawsuit to comply with the rules because the claims had become time barred.
- » Represented a national retailer in a lawsuit alleging claims arising under Title VII, retaliation, and breach of contract, which the federal district court dismissed on summary judgment.
- » Represented a client in a multi-million dollar state court jury trial that resulted in a defense verdict.
- » Represented a client in federal discrimination lawsuit arising under the ADA and FMLA that resulted in summary judgment and ended with another favorable ruling from the Sixth Circuit Court of Appeals.
- » Secured a defense verdict on behalf of a national retailer in a wage and hour arbitration. The claim alleged the retailer had wrongfully denied its managers overtime compensation by paying them as exempt employees. The arbitrator decided the case in favor of the Company based on the executive exemption.
- » Defeated lawsuit brought against governmental entity for alleged sex discrimination and retaliation by filing for summary judgment.
- » Secured summary judgment on behalf of a major airline in Arkansas federal court, defeating a lawsuit alleging discrimination on the basis of race and retaliation.
- » Prevailed on summary judgment in Missouri federal court in a lawsuit claiming discrimination and retaliation under the ADA and FMLA.

Honors & Awards

- » "500 Leading U.S. Corporate Employment Lawyers,"

LawDragon (2020-2024)

- » "Lawyer of the Year," *The Best Lawyers in America*, Memphis - Litigation - Labor & Employment (2023)
- » *The Best Lawyers in America* - Employment Law - Management, Litigation - Labor and Employment (2021-2024)
- » "Mid-South Rising Stars," *Super Lawyers* magazine (2016-2020)

Memberships

- » MBA Labor and Employment Section Chair (2020)
- » TBA Federal Law Section, Chairman of Executive Council (2017-2018)
- » TBA Federal Law Section, Vice-Chairman of Executive Council (2016-2017)
- » TBA Federal Law Section, Executive Council Member (2015-present)
- » Federal Bar Association Mid-South Chapter, Board Member (2011-2014)
- » Federalist Society, Memphis Chapter, Vice President (2011-present)
- » American Bar Association
- » Tennessee Bar Association
- » Arkansas Bar Association
- » Kentucky Bar Association
- » Defense Research Institute

News & Insights

- » September 26, 2023 - Six FordHarrison Partners Named to Lawdragon's 500 Leading Corporate Employment Lawyers Guide
- » August 17, 2023 - Five Tennessee-Based FordHarrison Attorneys Listed in the 2024 Best Lawyers in America and Three Listed in Ones to Watch
- » August 18, 2022 - Frank Day Named 2023 Lawyer of the Year by the Best Lawyers in America
- » August 15, 2022 - Six FordHarrison Partners Named to Lawdragon's 500 Leading U.S. Corporate Employment Lawyers Guide
- » August 10, 2022 - "Offensive Language and Physical

Violence in the Workplace: Was Will Smith Justified in Hitting Chris Rock in the Face?" EntertainHR

Events

- » December 13, 2023 - 2023 Employment Law Year in Review (And a Preview of 2024) - Tennessee SHRM
- » October 27, 2023 - "What You Need to Know About the New EEOC, Supreme Court & NLRB Initiatives" Complimentary Lunch & Learn - Memphis, TN
- » April 20, 2023 - "2023 Labor and Employment Law Update" Complimentary Breakfast Briefing - Memphis, TN
- » October 12, 2022 - "How to Address your Workforce in a New Era" Complimentary Breakfast Briefing - Memphis, TN
- » January 20, 2022 - Tennessee State Law Update - Complimentary Webinar

Offices

- » *Memphis:*
1715 Aaron Brenner Drive, Suite 200
Memphis, Tennessee 38120
- » *Nashville:*
150 3rd Avenue South, Suite 2010
Nashville, Tennessee 37201