



## Richard P. McArdle

Partner

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## Biography

### Practices & Sectors

#### Labor & Employment

Richard P. McArdle is a partner with Seyfarth Shaw LLP, the leading national employment and labor law firm. Mr. McArdle defends employers against class and other severe employment discrimination and wage & hour lawsuits throughout the United States.

Mr. McArdle's primary focus is defending employers in class and complex employment litigation cases. His experience in these high impact cases includes defending against allegations of race, gender, age, disability and national origin discrimination, as well as retaliation and wage & hour matters. Among his many cases, he recently defeated class certification in a high profile class action alleging race discrimination involving pay and promotions, and a breach of contract action involving 9,000 independent insurance agents. He also won early dismissal of a class action lawsuit alleging wrongful discharge under Ohio and California law, which saved his client hundreds of thousands of dollars in legal fees and damages.

Mr. McArdle has also defended employers in large plant shutdown and strike cases, won dismissal of all 51 EEOC charges stemming from a workplace strike, and prevailed at the Sixth Circuit Court of Appeals.

Mr. McArdle designs and implements highly effective and complex litigation strategies, and manages small and large defense teams as they execute specific tasks toward victory.

Mr. McArdle was recently quoted in *Employment Law 360* after obtaining a class action victory, and co-authored a chapter on Employment Contracts in the Illinois Institute of Continuing Legal Education's publication: *Conducting the Employment Practices Audit*, and previously served as a contributing editor for the Bureau of National Affairs' publication, *Employment Discrimination Law*, 4th ed. Mr. McArdle has been selected as an Illinois Super Lawyer multiple times, and co-authored an article for the American Bar Association's annual newsletter for the Equal Employment Opportunity Committee. Mr. McArdle lectures regularly on employment discrimination and litigation prevention to employment groups, CEOs, and Human Resource representatives. By invitation from the Canadian Consulate's office in the U.S., Mr. McArdle spoke to a group of Canadian employers doing business in the U.S. concerning employment and labor laws and responding to inquiries from the various government agencies that enforce such laws.

## Education

- J.D., Case Western Reserve University School of Law (1993)
- M.B.A., Case Western Reserve University (1993)  
Weatherhead School of Management
- B.B.A., Cleveland State University (1987)

## Admissions

- Illinois

## Courts

- U.S. Court of Appeals for the Seventh Circuit
- U.S. District Court for the Northern District of Illinois

## Affiliations

- American Bar Association (Equal Employment Opportunity Committee)

## Representative Engagements

### Defense of Class Action And Multi-Plaintiff Actions

- *Jones, et. al. v. National Council of Young Men's Christian Associations of the United States of America, et. al.*, No. 09-CV-06437 (U.S. District Court / Northern District of Illinois) (won denial of class certification in this disparate impact race discrimination claim).
- *Copp, et. al. v. American Enterprise Services Co., et. al.*, No. 11-CV-00189 (U.S. District Court / Southern District of Iowa) (won denial of class certification in breach of contract and Fair Credit Reporting Act case).
- *Shaker, et al. v. New Times, et al.*, No. 04-CV-1881 (U.S. District Court / Northern District of Ohio) (won motion to dismiss class action allegations of wrongful discharge, conspiracy and tortious interference under California and Ohio law).
- *Miller, et al. v. Freedom Waffles, et al. (d/b/a Waffle House)*, No. 06-CV-159 (U.S. District Court / Western District of Kentucky) (won summary judgment in this race discrimination / denial of service case under federal/state law).
- *Fitzpatrick, et. al. v. Chicago North Shore Lodging, et. al.*, No. 10-CV-252 (U.S. District Court / Northern District of Illinois) (won summary judgment in this age/race/retaliation action under the ADEA, Title VII, and Section 1981).
- *Winston Brands, Inc. – Illinois Dept. of Human Rights* (won early dismissal of all 47 discrimination charges alleging race and national origin discrimination stemming from the mass termination of employees for failing to provide accurate immigration documents).
- *U.S. Tsubaki, EEOC - Cleveland* (won early dismissal of 51 age discrimination charges stemming from a workplace strike by union employees)
- *EEOC v. Interactive Logistics LLLC*, No. 14-CV-07569 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this class action lawsuit alleging race harassment under Title VII).
- *Lucas, et. al. v. Ferrara Candy Co., Inc., et. al.*, No. 13-CV-01525 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this class action lawsuit alleging race discrimination / failure to hire in violation of Title VII and Section 1981).
- *Milton, et. al. v. Ferrara Candy Co., Inc., et. al.*, No. 14-CV-09988 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this class action lawsuit alleging race discrimination / failure to hire in violation of Title VII and Section 1981).
- *Lee, et. al. v. Park-Ohio, et. al.*, No. 13-CV-01568 (U.S. District Court / District of Minnesota) (lead defense counsel in 16 plaintiff case alleging wrongful discharge, race and national origin harassment, and retaliation in violation of Section 1981, Title VII, and the Minnesota Human Rights Act).
- *Bodine Environmental Services* (lead defense counsel in EEOC class action investigation alleging race discrimination, harassment, and retaliation).
- *Justrite Manufacturing* (lead defense counsel in EEOC class action investigation alleging violations of the Americans With Disabilities Act).
- *Murray, et. al. v. Snapple Beverage Corp.*, No. 09-CV-07803 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this 9 plaintiff Section 1981 action alleging race harassment, discrimination, and retaliation)
- *Liddell, et. al. v. Snapple Beverage Corp.*, No. 09-CV-02983 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this Section 1981 action alleging race harassment).
- *Knox, et. al. v. Dr Pepper Snapple Group*, No. 09-CV-03274 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this Section 1981 action alleging race

harassment).

- *Johnson, et al. v. Snapple Beverage Corp.*, No. 09–CV-03417 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this Section 1981 action alleging race harassment).
- *Phillips, et al. v. National City Bank*, No. 06-CV-01110 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this Fair Credit Reporting Act class action).
- *Jothen, et al. v. Best Buy, Inc.*, No. 04-CV-4812 (U.S. District Court / District of Minnesota) (served as strategic defense counsel in this age case where plaintiffs brought a collective action for alleged age discrimination in a reduction-in-force).
- *Carlson, et al. v. CH Robinson, Inc.*, No. 02-CV-3780 (U.S. District Court / District of Minnesota) (co-lead defense counsel in this class action gender discrimination case alleging company-wide claims for pay, promotional opportunities, and terms and conditions of employment).
- *Mercado, et al. v. Collis Foods, Inc. (d/b/a Waffle House)*, No. 05-CV-02170 (U.S. District Court / Northern District of Georgia) (coordinated defense in this race discrimination / denial of access case brought by plaintiffs and the Washington Lawyer's Committee).
- *Harris, et al. v. Hillcrest Foods, Inc. (d/b/a Waffle House)*, No. 04-CV-14 (U.S. District Court / Western District of North Carolina) (coordinated defense in this race discrimination / denial of access case brought by plaintiffs and the Washington Lawyer's Committee).
- *Brown, et al. v. Waffle House, et al. (d/b/a Waffle House)*, No. 03-CV-207 (U.S. District Court / Eastern District of Texas) (lead defense attorney for Waffle House franchisee in this race discrimination / denial of access case brought by plaintiffs and the Washington Lawyer's Committee).
- *Berry, et al. v. Hillcrest Foods, Inc. (d/b/a Waffle House)*, No. 03-CV-447 (U.S. District Court / Western District of North Carolina) (race discrimination / denial of access case brought by plaintiffs and Washington Lawyer's Committee).
- *Brooks, et al. v. Collis Foods, Inc. et al. (d/b/a Waffle House)*, No. 03-CV-155 (U.S. District Court / Northern District of Georgia) (coordinated defense in this race discrimination / denial of access case brought by plaintiffs and the Washington Lawyer's Committee).
- *Luna, et al. v. Freedom Waffles, et al. (d/b/a Waffle House)*, No. 03-CI 8505 (Circuit Court of Jefferson County, Kentucky) (lead defense attorney in this four plaintiff sexual harassment and state law tort action).
- *Williamson, et al. v. Briskin Manufacturing Corp.*, No. 3-01-0586 (U.S. District Court / Middle District of Tennessee) (lead defense attorney in this WARN class action).

#### **Defense of Federal And State Court Single-Plaintiff Actions**

- *Potts v. American Bottling Co. (d/b/a Dr Pepper Snapple)*, No. 12-CV-2688 (U.S. District Court / Northern District of Ohio) (won summary judgment in this breach of contract action under Labor Management Relations Act).
- *Borum v. Wide Open West Internet, Cable & Phone*, No. 2013 M1 149267 (Circuit Court of Cook County, Illinois) (won motion to dismiss claim for breach of employment contract and awarded fees).
- *Philip v. Wrigley Manufacturing Company, LLC*, No. 10-6442 (U.S. Court of Appeals For The Sixth Circuit) (won appeal of summary judgment in this race, national origin, and harassment action brought under Title VII and the Tennessee Human Rights Act).
- *Morley v. American Bottling Co. (d/b/a Dr Pepper Snapple)*, No. 13–CV-07524 (U.S. District Court / Northern District of Illinois) (won motion to dismiss in this age discrimination / wrongful discharge action).
- *Downs v. Bel Brands USA, Inc.* No. 14–CV-00016 (U.S. District Court / Western District of Kentucky) (won motion to dismiss in this age discrimination / promissory estoppel / wrongful discharge action).
- *Roof v. Bel Brands USA, Inc. et al.* No. 14-CV-00071 (U.S. District Court / Western District of Kentucky) (won motion to dismiss in this sex and age discrimination, retaliation,

conspiracy, promissory estoppel, negligent hiring, retention, and supervision action, and defeated motion to vacate order).

- *American Kitchen v. John Soules Foods, Inc.*, (No. 14–CV-0646 (U.S. District Court / Northern District of Illinois) (won motion to dismiss in this ethnicity discrimination action under the Equal Credit Opportunity Act).
- *Beeman v. Chuck-Mar Corp. (d/b/a McDonald's)*, No. 2005-CV-0274 (Court of Common Pleas, Portage County, Ohio) (won motion to dismiss and awarded sanctions in this disability retaliation / age discrimination claim brought under the Ohio Civil Rights Act).
- *Rogers v. Freedom Waffles, et al. (d/b/a Waffle House)*, No. 05-CI-06353 (Circuit Court of Jefferson County, Kentucky) (won motion to dismiss and compel arbitration in this wrongful discharge / race discrimination claim under the Kentucky Civil Rights Act).
- *William A. Almond, III v. National City Bank*, No. 03-L-005545 (Circuit Court of Cook County, Illinois) (won motion to dismiss this constructive discharge / negligent supervision case).
- *Patsis v. H.S. Crocker Company, Inc.*, No. 10–CV-50016 (U.S. District Court / Northern District of Illinois) (won summary judgment on sex harassment claim).
- *Nathan v. Playboy Enterprises*, No. 13-CV-02566 (U.S. District Court / Central District of California) (lead defense counsel in this ERISA denial of benefits case).
- *Wiley v. WTHR-TV, et. al.* No. 13-CV-00265 (U.S. District Court / S. District of Indiana) (lead defense counsel in Title VII sex and age harassment, discrimination, and retaliation action).
- *Gunsell v. The American Bottling Company (d/b/a Dr Pepper)*, No. 13-CV-12472 (U.S. District Court / Eastern District of Michigan) (lead defense counsel in this disability discrimination and retaliation claim under the Michigan Persons with Disabilities Civil Rights Act and Elliot Larson Civil Rights Act).
- *Tacey v. The American Bottling Company (d/b/a Dr Pepper)*, No. 13-CV-12800 (U.S. District Court / Eastern District of Michigan) (lead defense counsel in this disability discrimination claim under the Michigan Persons with Disabilities Civil Rights Act and retaliation under the FMLA).
- *Weaver v. Dr Pepper Snapple Group, et. al.*, No. 12-CV-350 (U.S. District Court / Middle District of Pennsylvania) (lead defense counsel in this ADA / wrongful discharge action).
- *Vejnovic v. Toyoda Machinery USA Corp.*, No. 2012 L 4418 (Circuit Court Cook County / Law Division) (lead defense counsel in this whistleblower wrongful discharge action).
- *DellaPorta v. Dr Pepper Snapple Group, Inc.*, No. 11-CV-327 (U.S. District Court / Eastern District of Texas) (lead defense counsel in this sex discrimination/retaliation action under Title VII).
- *Campbell v. Dr Pepper Snapple Group*, No. 11-01331 (District Court Collin County, Texas) (lead defense counsel in this Texas state law pregnancy discrimination and retaliation action).
- *Abioye v. Chicago North Shore Lodging, et. al.*, No. 10-CV-257 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this pregnancy/race action under Title VII and Section 1981).
- *Siverand v. Snapple Beverage Corp.*, No. 10–CV-07961 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this Section 1981 action alleging race harassment and retaliation).
- *Jones v. Snapple Beverage Corp.*, No. 10–CV-07929 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this Section 1981 action alleging race harassment and retaliation).
- *DeBauge v. Phillips Service Industries*, No. 10–CV-06274 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this disability/wrongful discharge case under the ADA).
- *Davignon v. YMCA of Middletown and YMCA of the USA*, No. 09-CV-8942 (U.S. District Court / Southern District of New York) (lead defense counsel in an action alleging age and reverse gender discrimination).

- *Johnson v. Snapple Beverage Corp.*, No. 09–CV-02352 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this Section 1981 action alleging race harassment).
- *Smith v. Snapple Beverage Corp.*, No. 09–CV-02821 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this Section 1981 action alleging race harassment).
- *Wilder v. Snapple Beverage Corp.*, No. 09–CV-03772 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this Section 1981 action alleging race harassment).
- *Gordon v. Snapple Beverage Corp.*, No. 09–CV-05218 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this Section 1981 action alleging race harassment).
- *Carlson v. BWAY Corp.*, No. 2-09-CV-0176 (U.S. District Court / Northern District of Georgia) (lead defense counsel in this Title VII retaliation and breach of contract action).
- *Connor v. Wrigley Sales Co.*, No. 08-CV-21641 (U.S. District Court / Southern District of Florida)(lead defense counsel in this sex harassment / wrongful discharge case under Title VII and the Florida Civil Rights Act).
- *Ramsey v. Wrigley Manufacturing Co.*, No. 08-CV-80 (U.S. District Court / Eastern District of Tennessee)(lead defense counsel in this hostile work environment / retaliation case under the Tennessee Human Rights Act).
- *Kirk v. Wrigley Manufacturing Co.*, No. 08-CV-41 (U.S. District Court / Eastern District of Tennessee) (lead defense counsel in this wrongful discharge / FMLA case).
- *Wolfenbarger v. Global Automotive Systems (d/b/a Lexington Metal Systems)*, No. 08-CI-90050 (Montgomery Circuit Court, Kentucky)(lead defense counsel in this wrongful discharge case under the Kentucky Civil Rights Act).
- *Horn v. Global Automotive Systems (d/b/a Lexington Metal Systems)*, No. 08-CI-90224 (Montgomery Circuit Court, Kentucky)(lead defense counsel in this wrongful discharge case under the Kentucky Civil Rights Act).
- *Whitehead Electric v. Wrigley Manufacturing Co.*, No. 2007 CV-3964 (Superior Court of Fulton County, Georgia) (co-defense counsel in this breach of contract case).
- *Jackson v. National City Corporation, et al.* No. 07-C-6269 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this Section 1981 race discrimination case).
- *McClanahan v. Global Automotive Systems* No. 07 CI 90346, (Montgomery County, Kentucky) (lead defense counsel in this gender / wrongful termination case).
- *Navy v. Freedom Waffles, Inc. (d/b/a Waffle House)*, No. 04-CV-468 (U.S. District Court / Western District of Kentucky) (lead counsel in this wrongful discharge / gender / race discrimination claim).
- *Lauritzen v. NexMed (USA), Inc.*, No. L 745-03 (Superior Court of New Jersey) (lead defense counsel in this breach of bonus contract action for high level executive).
- *Kintzer v. National City Bank, et al.*, No. 04-C-4939 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this Title VII / sex harassment case).
- *Smith v. Hillcrest Foods, Inc. (d/b/a Waffle House)*, No. 04-CV-638-H (U.S. District Court / Western District of North Carolina) (coordinated defense in this race discrimination / denial of access case brought by plaintiff and the Washington Lawyer's Committee).
- *Crowe v. Hillcrest Foods, Inc. (d/b/a Waffle House)*, No. 03-CV-3787 (U.S. District Court / District of South Carolina) (coordinated defense in this race discrimination / denial of access case brought by plaintiff and the Washington Lawyer's Committee).

#### **Defense of Wage and Hour Complex Cases**

- *Harden, et. al. v. Wm. Wrigley Jr. Co.*, No. 07-CV-5928 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this FLSA collective action).
- *In re C. H. Robinson Worldwide, Inc. Overtime Pay Litigation*, No. 07-MD-1849 (U.S. District Court / District of Minn.) (co-lead defense counsel in this 525 plaintiff case alleging overtime pay violations under the Fair Labor Standards Act).



- *Acevedo, et. al. v. Heinemann's, Inc., et al.*, No. 06-CV-3252 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this 122 plaintiff case alleging violations of WARN, ERISA, Section 301 of the LMRA, and the Illinois Wage Payment and Collection Act).
- *Butler, et al. v. American Cable & Telephone, LLC*, No. 09-CV-5336 (U.S. District Court / Northern District of Illinois) (co-lead defense counsel in this class and collective action brought under the Fair Labor Standards Act and the Illinois Wage Payment and Collection Act).
- *Gundogdu v. Chicago River Road Lodging Assoc.*, No. 10-CV-02957 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this gender/overtime pay action under the FLSA and IL. Wage Payment & Collection Act).
- *Zimmerman, et. al. v. Rush Hour Events, LLC*, No. 10-CV-03117 (U.S. District Court / Northern District of Illinois) (lead defense counsel in this wage-hour collective action).

### **Trials**

- *Laslie v. Household International, Inc.* No. 98-C-2352 (U.S. District Court / Northern District of Illinois) (won directed verdict in jury trial of plaintiff's sexual harassment / race discrimination / wrongful discharge case).
- *Holley v. Chicago Cable TV, et al.* No. 95-C-7503 (U.S. District Court / Northern District of Illinois) (won jury verdict in this age discrimination / failure to promote and retaliation case).
- *Golston v. City of Calumet City*, Nos. S-CA-031; 059; and 153 (Illinois Labor Relations Board) (won four day bench trial on all counts, including retaliation, discrimination, and wrongful discharge).

### **Presentations**

- "Minimizing Employer Expense in Employment Litigation," Twenty-Third Annual Carl A. Warns, Jr., Labor and Employment Law Institute, The Louis D. Brandeis School of Law, University of Louisville
- "Religious Discrimination in the Workplace," Society for Human Resource Management, DuPage Chapter
- "Harassment in Employment," American Bar Association EEO Basic Law and Procedure
- "Legislative Update," DuPage Society for Human Resource Management
- "Workplace Harassment and Internal Investigations: Protecting Your Organization by Conducting Timely and Thorough Investigations," Council on Education in Management
- "Discipline and Termination: Critical Steps to Avoid Wrongful Discharge Liability," Council on Education in Management
- "Discrimination and Retaliation: Avoiding Discrimination and Retaliation Liabilities by Establishing Preventive Practices," Council on Education in Management
- "Leaves of Absence Issues: Complying With The FMLA, ADA and State Workers' Compensation Laws," Council on Education in Management
- "Managing Medical Leaves of Absence Under The FMLA and ADA," Oakbrook Human Resource Association
- "Wrongful Discharge, Retaliation & Discrimination Claims," Council on Education in Management
- "A General Overview Of U.S. Labor And Employment Laws For Canadian Companies Doing Business In The U.S.," Canadian Consulate, Chicago
- "Employment Law Counseling For The Small Business Client in Illinois," National Business Institute
- "Protecting Your Business From FMLA and ADA Liability When Disciplining or Discharging Employees for Absenteeism," Oakbrook Human Resource Association
- "E-Mail and Invasion Of Privacy Issues – How Far Can An Employer Go?," Lorman

Seminar Series

- “Reductions In Force: How To Avoid Liability Under The Age Discrimination Act and Other Anti-Discrimination Laws,” Lorman Seminar Series
- “Avoiding Retaliation Claims When Disciplining Or Terminating Employees For Absenteeism,” Counsel on Education in Management
- “Employee Leaves Of Absence: Overlapping Issues Under the FMLA, the ADA and Other Employment Statutes,” Council on Education in Management

Publications

- “Employment Agreements,” Ch. 5, *Conducting the Employment Practices Audit*, Illinois Institute for Continuing Legal Education (2010)
- “Making the Most of Your Trial Strategy: Practical Tips From The Midwinter Meeting,” *EEO Today*, Vol. 9, Issue 1 (Fall 2004)