



Michel Vanesse

Partner

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Michel Vanesse advises clients on all aspects of employee benefits and executive compensation. He also counsels clients on the design, maintenance, and termination of qualified and non-qualified plans, performance-based and equity-based compensation, and all forms of executive compensation arrangements. Those include employment agreements, change-in-control agreements, and termination agreements, including in the private equity context.

Michel has represented public and privately held companies but also not-for-profit and governmental organizations, particularly in the health care industry. In that capacity, He regularly provides advice on the design and operation of 403(b) and 457 plans.

REPRESENTATIVE EXPERIENCE

- Assisted a financial institution in the redesign of its qualified and non-qualified plans.
- Assisted multiple publicly and privately held companies in 409A compliance, both domestically and internationally.
- Advised several health systems in the establishment and maintenance of benefit plans, including 457 plans.
- Represented the management team of an energy company on all benefits and executive compensation issues relating to a leveraged buyout; represented the same energy company on benefits and executive compensation issues during the subsequent IPO.
- Represented clients with respect to the correction of documentary and operational failures in qualified and non-qualified 409A-covered plans.
- Negotiated and drafted severance packages for members of management team of a retail company.
- Advised clients on compliance with sections 162 (m) and 280G of the Internal Revenue Code (deductibility of executive compensation and parachute payments).
- Represented privately held company before the Department of Labor in an ESOP audit.



CHARLOTTE OFFICE



PRACTICE AREAS

Employee Benefits & Executive Compensation
 ERISA Litigation
 Employment & Labor
 International Business
 Tax-Exempt Organizations



EDUCATION

University of Chicago
 JD, 1995
 Université Libre de Bruxelles
 JD, LL.M., 1989



ADMISSIONS

North Carolina, 2005
 Illinois, 1995



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CLIENT ALERTS

- "New DOL Rule on Disability Claims Procedures: Employer Action Required," February 2018
- "Should N.C. Restrictive Covenants Prohibit Solicitation of Prospective Customers?", December 2017
- "FMLA Requires Written Agreement With Exempt Employees for Intermittent Leave Calculation," December 2017
- "Full Eleventh Circuit Declines to Revisit Meaning of Race Under Title VII," December 2017
- "Overseas Affiliate Not Subject to Title VII Jurisdiction," December 2017
- "NLRB General Counsel Signals Rollback of Positions Affecting Unionized, Non-Unionized Employers," December 2017
- "DOL Proposes Repeal of Obama-Era Tip Credit Rule," December 2017
- "Fourth Circuit Says Mixed-Fleet Drivers Entitled to Overtime," December 2017
- "OSHA Delays Electronic Injury Reporting Requirement Until December 15," December 2017
- "Nonprofits Can Avoid Overtime Requirements If They Avoid 'Enterprise' Status," December 2017
- "Overtime Claim Against Chipotle Stayed Until Contempt Motion Is Heard," November 2017
- "Ninth Circuit Agrees Minimum Wage Compliance Is Determined on Workweek Basis," November 2017
- "Lousy Internship Experience Does Not Convert It Into Paid Work," November 2017
- "Make Sure FMLA Forms Mailed to Employees Can Be Traced," November 2017
- "Federal Legislation Would Preempt State and Local Laws in Return for Guaranteed Paid Leave," November 2017



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- "USERRA Requires Bonus Payment to Reservist Who Missed Training," November 2017
- "Employer Not Required to Provide Indefinite Leave for a Temporary Disability," November 2017
- "Federal Courts Uphold Employer Notification Requirements for FMLA Absences," November 2017
- "Fourth Circuit: Employer's Response to Unreported Harassment Defeats Later Title VII Claim," November 2017
- "FMLA Care Leave Rights Expire Upon Relative's Death," November 2017
- "Third Circuit Bats Away Employer's Flexible Time Break Policy," October 2017
- "Lack of Bonus Plan Explanation Does Not Violate Sarbanes-Oxley," October 2017
- "Employer Can Use Draw-On-Commissions but Cannot Require Repayment Upon Termination," October 2017
- "California Bans Salary History Inquiries During Hiring Process," October 2017
- "Calling African-American 'Boy' and 'You People' Creates Hostile Work Environment," October 2017
- "Departments of Justice and State Announce Joint Effort Targeting Visa-Abusing Employers," October 2017
- "How to Answer Employee Questions About a Co-Worker's ADA Accommodations," October 2017
- "Accommodations Beyond ADA Requirements Can Backfire on Employers," October 2017
- "Tenth Circuit Upholds EEOC's Authority to Sue in Relation to Non-Disparagement Provision," October 2017
- "DOJ Says Title VII Does Not Protect Transgender People," October 2017
- "Ninth Circuit Rejects DOL's Interpretation of Tip Credit Rule," October 2017



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- "Workplace Communications Policy Can Limit Later Discovery Burdens," October 2017
- "EEOC Sues Employer for Mandatory Bible Study Meetings," October 2017
- "Seventh Circuit Says Extended Post-FMLA Medical Leave Not Required Under ADA," October 2017
- "Settlement Agreements With Employees Should Avoid IRCA Compliance Contingency," September 2017
- "DOJ Vows Criminal Prosecution of Employee "No Poaching" Agreements," September 2017
- "U.S. Department of Labor Announces 2018 Federal Contractor Minimum Wage Increases," September 2017
- "Eleventh Circuit Says PDA May Require Accommodation of Breastfeeding Needs," September 2017
- "Failure to Complain About Sexual Harassment Over Long Period of Time Dooms Later Claims," September 2017
- "European Court Says Employers Cannot Monitor Employees' Personal Email Sent on Company Servers," September 2017
- "NLRB Upholds Rule Prohibiting Disclosure of Confidential Customer Information ," September 1, 2017
- "Federal Court Again Says Telecommuting Not Acceptable Substitute for Being at Work ," August 30, 2017
- "Denial of Lateral Transfer Adverse Employment Action Under Title VII," August 28, 2017
- "Eighth Circuit Says Racist Comment Not Justification for Terminating Striking Worker ," August 25, 2017
- "Google and Charlottesville Events Raise Questions for Companies Regarding Employee Political Views ," August 23, 2017
- "North Carolina Governor Signs Law Creating Division to Investigate and Prosecute Employee Misclassification Claims ," August 21, 2017
- "Ninth Circuit Says Mortgage Underwriters are Production Workers Not Eligible for Overtime Exemption ," August 4, 2017



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- "DOL Halts Enforcement of Tip Pooling Rules," August 2, 2017
- "Fifth Circuit Finds Telecommuting Not Reasonable for Accommodation for Litigation Attorney," July 31, 2017
- "Workplace Odors Can Provide Basis for Telecommuting Arrangement ," July 28, 2017
- "Latest Revised I-9 Form Released," July 26, 2017
- "Massachusetts Supreme Court Finds Medical Marijuana Users Protected from Adverse Employment Action ," July 24, 2017
- "NLRB Affirms Employer's Right to Terminate Employees Who Disparaged Company's Food Safety Practices ," July 21, 2017
- "OSHA Proposes Delay for New Injury Reporting Requirements ," July 19, 2017
- "Eleventh Circuit Decision May Prompt Supreme Court to Determine Coverage of Sexual Orientation Bias Under Title VII ," July 17, 2017
- "President Trump Loosens DOL Apprenticeship Qualifications ," June 30, 2017
- "North Carolina Appellate Court Refuses to Lift Preliminary Injunction in Non-Solicitation Case Before Trial ," June 28, 2017
- "Ninth Circuit Finds Small Government Subdivisions Subject to ADEA ," June 26, 2017
- "Fourth Circuit Affirms "Mark of the Beast" Religious Discrimination Verdict ," June 19, 2017
- "Shielding Teacher From Unruly Students Not ADA Reasonable Accommodation ," June 16, 2017
- "Second Circuit Upholds NLRB Ban on No Recording Policy ," June 14, 2017
- "DOL Withdraws Joint Employer Guidance ," June 12, 2017
- "Seventh Circuit Title IX Ruling May Impact Transgender Employee Protections," June 5, 2017
- "EEOC Charge Does Not Need to Specify Quid Pro Quo Sexual Harassment," May 26, 2017



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- "Can Employers Require Medical Confirmation of Pregnancy for FLMA Leave Purposes? ," May 24, 2017
- "Fourth Circuit Says FMLA Allows Reinstatement to Equivalent Position Even If Original Job Remains," May 22, 2017
- "Expletive-Laced Facebook Rant Protected Under Federal Labor Law," May 5, 2017
- "Sixth Circuit Says "Cat's Paw" Theory Applies to FMLA Retaliation Claim," May 3, 2017
- "Should Employers Consider Dropping Marijuana Testing? ," May 1, 2017
- "Employer Not Required to Pay for Medical Treatment or Provide Teamwork Structure as ADA Accommodations ," April 21, 2017
- "Employer Potentially Liable for Supervisor's Off-Duty Murder of Employee ," April 19, 2017
- "NC Court of Appeals Says Attempted ADA Accommodation Can Be Terminated Based on Effects on Coworkers ," April 17, 2017
- "IRS Asks Employers to Report Phishing Schemes ," April 15, 2017
- "Fourth Circuit Upholds Termination of Public Employee for Social Media Comments," April 14, 2017
- "Supreme Court Defers to Lower Court Determinations on EEOC Subpoena Powers," April 12, 2017
- "Seventh Circuit Says Sexual Orientation Protected Under Title VII," April 10, 2017
- "Second Circuit Chief Judge Urges Reconsideration of Title VII's Prohibition Against Sexual Orientation Discrimination," April 7, 2017
- "President Trump Kills Fair Pay and Safe Workplaces Federal Contractor Rule," April 5, 2017
- "HB2 Repeal Shields Employers From Local Labor Ordinances ," April 3, 2017
- "Mandatory Disclosure of Prescription Drug Use May Violate ADA," March 31, 2017
- "Tips Cannot Be Used to Satisfy Minimum Wage Requirement for Non-Tipped Work ," March 29, 2017



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- "Split Eleventh Circuit Panel Says Title VII Does Not Prohibit Discrimination Based on Sexual Orientation," March 27, 2017
- "Tenth Circuit Rejects Broad EEOC Subpoena in Single Employee Discrimination Charge," March 24, 2017
- "Purchaser of Assets in North Carolina Should Not Rely on Assign Ability of Seller's Non-Compete Agreements," March 22, 2017
- "Supreme Courts Dismissal of Transgender Discrimination Case Could Affect Employment Discrimination Claims ," March 20, 2017
- "Repeated "Friendly" Hugs and Kisses Can Rise to the Level of Actionable Sexual Harassment ," March 17, 2017
- "New NLRB Chair's Dissent May Point to Future Board Position on Challenges to Employee Handbook Policies ," March 15, 2017
- "Federal Computer Hacking Laws Apply to Executive's Unauthorized Access to Coworkers' Emails ," March 13, 2017
- "Prior Sexual Harassment Does Not Ease Plaintiff's Burden of Showing Hostile Work Environment," March 10, 2017
- "FMLA Caregiver Leave Rights Can Extend to Grandparents ," March 8, 2017
- "Federal ARB Says H-1B Employers Do Not Have to Pay Travel Costs for Employees Who Initially Decide to Stay in the U.S.," March 6, 2017
- "Work in "Ultra-hazardous" Activity Does Not Provide North Carolina Employees with Exception to Workers' Compensation Exclusivity," March 1, 2017
- "Employers Should Review Work Authorization Procedures ," February 27, 2017
- "Fourth Circuit Finds Religious Accommodation Obligation Does Not Require Waiver of Advance Notice Policy," February 22, 2017
- "Fourth Circuit Follows Salinas Decision With Finding of Joint Employment of Satellite TV Installers," February 20, 2017
- "Seventh Circuit Dismissal Signals Likely End to EEOC's Challenges to Employer-Sponsored Wellness Programs ," February 17, 2017



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- "Second Circuit Rejects Attempt to Prove Equal Pay Violation Through Simple Salary Comparison ," February 15, 2017
- "Sales Plans Should Contain Specific Treatment of Trailing Commissions," February 13, 2017
- "Harassment of Patients Does Not Give Reporting Employee Cause of Action Under Title VII," February 10, 2017
- "Fourth Circuit Says Construction General Contractor Responsible to Subcontractor's Employees for FLSA Violations ," February 8, 2017
- "Tenth Circuit Rejects EEOC Position on Retroactive Accommodation of Performance Issues," February 6, 2017
- "Seventh Circuit Affirms FMLA Retaliation Claim Based on Employer Ending Home Working Arrangement," February 2017
- "Fifth Circuit Allows Award of Compensatory Damages for FLSA Overtime Violation," January 2017
- "Seventh Circuit Says Student Athletes Not Entitled to Minimum Wage Payment," January 2017
- "Third Circuit Allows Disparate Impact Age Discrimination Action Based on Comparison of Over-40 Workers," January 2017
- "Fourth Circuit Rejects Police Department's Social Media Policy on First Amendment Grounds ," January 2017
- "Supreme Court Agrees to Review NLRB Position on Class Action Arbitration Waivers ," January 2017
- "Requiring Non-Competes for Low Level Employees Raises Increasing Risks for Employers ," January 2017
- "Can Employers Continue Post-Accident Drug and Alcohol Testing?," January 2017
- "Ninth Circuit Again Says Auto Dealers' Service Advisors Are Not FLSA Exempt Employees," January 2017
- "Fifth Circuit Rejects EEOC's Position on Punitive Damages for Age Discrimination ," January 2017
- "France Passes New Law Protecting Employees from Answering Off-Duty Emails ," January 2017



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- "EEOC Settlement Reminds Healthcare Employers of Limits on Mandatory Vaccinations," January 2017
- "OSHA Publishes RFI for Possible Workplace Violence Standard," January 2017
- "Percentage of Wage Bonus Plan Can Avoid Retroactive Overtime Calculations," January 2017
- "North Carolina Legislature Rejects HB2 Repeal," January 2017
- "What's Happening With the New Overtime Exemption Rules?," December 2016
- "Jimmy John's Settlement Cautions Employers Over Widespread Non-Compete Use," December 2016
- "Eleventh Circuit Finds ADA Does Not Require Reassignment Over More Qualified Applicants," December 2016
- "NLRB Says Social Media Policy Cannot Prohibit Employees from Posting Pictures of Company Uniforms," December 2016
- "FMCSA Announces CDL Drug and Alcohol Clearinghouse," December 2016
- "EEOC Issues Updated National Origin Discrimination Enforcement Guidance," December 2016
- "OSHA Reports Continuing Decrease in Workplace Injuries," December 2016
- "Long-Term Shift of Essential Job Functions May Remove Them as Mandatory Qualifications ," December 2016
- "Reverse Discrimination Protections Do Not Include Family Relationship with Alleged Racist," December 2016
- "Federal Court Injunction Throws Employers' Plans for December 1 Overtime Changes Into Disarray," November 2016
- "Marijuana Initiatives Do Not Require Changes to Drug Testing Policies," November 2016
- "Tenth Circuit Says FLSA Overtime Rate Does Note Include Reasonable Per Diem Meal Pay," November 2016



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- "Federal Judge Permanently Blocks DOL "Persuader" Rule," November 2016
- "NIOSH Sets Recommended Exposure Limits for Diacetyl," November 2016
- "Same-Sex Harassment Not Actionable When Conduct Not Based on Gender," November 2016
- "Fluctuating Workweek Policy Does Not Have to be Translated into Employee's Native Language," November 2016
- "Fourth Circuit Finds Sufficient Evidence of FMLA Fraud to Defeat Interference Claim," November 2016
- "EEOC Updates Strategic Enforcement Plan," November 2016
- "Supreme Court Agrees to Review Transgender Restroom Use ," November 2016
- "White House Council of Economic Advisors Cites Non-Competes as Factor in Increasing Labor Monopsony," November 2016
- "Federal Judge Blocks Federal Contractor "Blacklisting" Order," November 2016
- "Employer Had Implied Knowledge of Employee's Need for ADA Reasonable Accommodation," October 2016
- "Employers Explore Fluctuating Workweek and Related Alternatives to Time and One-Half Overtime for Newly Non-Exempt Employees," October 2016
- "ADA Allows Sleep Apnea Test for Obese Driver," October 2016
- "Eleventh Circuit Says No to Applicant Disparate Impact Age Discrimination Claims," October 2016
- "Paid Breaks Cannot Offset Overtime Obligations," October 2016
- "Seasonal Exemption May Help Some Employers Avoid New Overtime Pay Requirements," October 2016
- "Seventh Circuit Says Workplace Noose Does Not Automatically Create Hostile Work Environment," October 2016
- "DOL Releases Final Sick Leave Mandate for Federal Contractors," October 2016



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- "Trucking Company Owner Personally Liable for Whistleblower Retaliation Claim," October 2016
- "EEOC Finalizes New EEO-1 Form Requiring Disclosure of Pay Information," October 2016
- "Termination for Refusal to Cut Dreadlocks Not Race Discrimination," October 2016
- "SEC Fines Employers for Release Language Disclaiming Right to Monetary Recovery from Whistleblower Complaints," October 2016
- "Fourth Circuit Requires Individual Analysis of "Me Too" Discrimination Evidence," September 2016
- "Federal ALJ Says NLRA Also Protects Employee Social Media Use from Union Interference," September 2016
- "Ninth Circuit Holds SOX Gives SEC Power to Cause Executives to Disgorge Incentive Compensation Based on Others' Misconduct," September 2016
- "New IRS Guidance on Deferred Compensation for Tax-Exempt and Governmental Employers," September 2016
- "Supervisor's Remarks May Constitute Direct Evidence of Discriminatory Bias," September 2016
- "OSHA Details Federal Contractor Safety Violation Disclosures," September 2016
- "New White Collar Exemption Salary Level May Result in Decreased Base Pay," September 2016
- "Tenth Circuit Decision Shows How Employers Can Deal with Performance Problems Discovered with Employees on Leave," September 2016
- "Seventh Circuit Upholds NLRB Order to Return Jobs from Mexico to U.S. Facility," September 2016
- "NLRB Finds Temp Agency Joint Employer with User of Labor Services," September 2016
- "NCDOL to Cooperate with Federal Agencies to Crack Down on Employee Misclassification," September 2016



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- "EEOC Issues Retaliation Enforcement Guidance," September 2016
- "NLRB Says Employees Spreading Inaccurate Information is Protected Conduct," August 2016
- "ACA Non-Discrimination Rules May Apply to Certain Healthcare Employers' Benefits Practices," August 2016
- "DOJ Proposes Expanding Reaching of INA's Anti-Discrimination Provisions," August 2016
- "North Carolina Court Again Narrows Scope of Post-Employment Restrictions," August 2016
- "NLRB Says General Conflict of Interest Policies Violate Federal Labor Law," August 2016
- "Health Plan Case Managers Entitled to Overtime Pay," August 2016
- "Don't Use Form Non-Compete with North Carolina Employees," August 2016
- "D.C. Circuit Upholds NLRB Position on Illegal Handbook Policies," August 2016
- "New Massachusetts Law Prohibits Employers from Asking Applicants About Salary History," August 2016
- "Eight Circuit Holds Asset Purchaser Liable for Failure to Provide WARN Notice to Seller's Employees," August 2016
- "Federal ALJ Says Ban on Conducting Personal Business in Handbook Violated NLRA Rights," August 2016
- "Seventh Circuit Says Title VII Does Not Protect Against Discrimination Based on Sexual Orientation," August 2016
- "Focus on Incentive Pay Practices: A Message from the Regulators," August 2016
- "Are Professional Athletes Covered Under New Overtime Rules?," August 2016
- "Recent EEOC Notice Seeks to Counter Portions of North Carolina's HB2 Law," August 2016
- "Seventh Circuit Rejects Dual Minimum Wage Requirement for Tipped Workers Who Perform Other Duties," August 2016



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- "EEOC Revises, Delays Pay Data Collection Proposal," July 2016
- "Fourth Circuit Says Failure to Replace Employee Does Not Defeat Discriminatory Termination Claim," July 2016
- "OSHA Delays Enforcement of Portions of New Recordkeeping Rules," July 2016
- "NLRB Allows Temporary Employees to Form Part of Bargaining Unit for Union Elections," July 2016
- "ADA Allows Employer to Reduce Employee to Part-Time Status After Return From Medical Leave," July 2016
- "Fourth Circuit Says Failure to Advise Employee of Leave Reinstatement Interfered with FMLA Rights," July 2016
- "Fifth Circuit Says Texas May Challenge EEOC Criminal Background Check Guidance ," July 2016
- "Cashed Out Benefits Must Be Included in Regular Rate When Calculating Overtime Premium ," July 2016
- "North Carolina General Assembly Reinstates State Law Discrimination Claims," July 2016
- "Employers Limited in Service Fees Deductions From Credit Card Tips," July 2016
- "Limited Liability Company Member Not an Employer Under NC Wage and Hour Act," July 2016
- "Federal Judge Blocks DOL "Persuader" Rule ," July 2016
- "Highly Compensated Employee Cannot Claim FLSA Violation Based on Employer's Wage Withholding ," June 2016
- "North Carolina Supreme Court Denies Employee's Claim to Patent Ownership Based on Pay Dispute with Employer," June 2016
- "Supreme Court Passes Automobile Dealership Service Advisor Exemption Issue Back to Lower Court ," June 2016
- "Can North Carolina Employers Terminate Employees Based on Threat of Domestic Violence Spillover? ," June 2016
- "Prevailing FLSA Defendant May Recover Costs From Unsuccessful Plaintiff," June 2016



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- "Fourth Circuit's Exotic Dancer Decision May Affect Other Independent Contractor Classifications," June 2016
- "Second Circuit Rejects Light Duty Program Limited to Job-Related Injuries," June 2016
- "Appellate Court Split Sets Stage for Supreme Court to Determine Use of Class Action Waivers in Employment Arbitration Agreements ," June 2016
- "Ninth Circuit Affirms Use of FLSA "Rounding" Rule for Recording Time Worked," June 2016
- "New Overtime Salary Exemption Levels Allow Limited Use of Incentive Pay ," June 2016
- "Supreme Court Allows Employer to Collect Fees From the EEOC Without Verdict on Merits of Claim ," June 2016
- "Fourth Circuit Finds Rebellious Behavior by Subordinates Insufficient to Constitute Hostile Work Environment," June 2016
- "NLRB Again Rejects Employer Code of Conduct Provisions Requiring Positive Coworker Relations," June 2016
- "Supreme Court Says Limitations Period for Discrimination Claims Runs Beginning on Date of Constructive Discharge," May 2016
- "New Defend Trade Secrets Act Requires Employers to Include Disclaimers in All Confidential Information Agreements," May 2016
- "EEOC Issues Final Wellness Plan Rules," May 2016
- "DOL Issues Final Overtime Exemption Rules Doubling Minimum Salary as of December 1 ," May 2016
- "Fourth Circuit Rejects Motor Carrier's Defense in Refusing to Hire Driver Diagnosed with Narcolepsy ," May 2016
- "Fourth Circuit Says Standard for Adverse Action in Retaliation Claim is Significantly Lower Than That for Discrimination Claims ," May 2016
- "OSHA Issues Final Rules on Electronic Injury Reporting," May 2016
- "South Carolina Court of Appeals Says 150-Mile Geographic Restriction in Non-Compete is Unreasonable," May 2016
- "EEOC Issues Fact Sheet on Transgender Employee Bathroom Access," May 2016



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- "Fourth Circuit Says Employer-Sponsored Training Through Community College May Be Compensable Working Time," May 2016
- "FASB Improves Employee Share-Based Payment Accounting," May 2016
- "NLRB Rejects General Employee Behavior Standards in Code of Conduct ," May 2016
- "Congress Passes Federal Trade Secret Protection Legislation," May 2016
- "Special Report: How Should NC Employers Apply Restroom Policies Following HB2?", April 2016
- "Permanent Light Duty Not Required Under ADA," April 2016
- "Fifth Circuit Rejects EEOC's Position on Reasonable Belief Standard for Reactive Retaliation Claims ," April 2016
- "Morbid Obesity Must Have Physiological Cause to Gain ADA Protection ," April 2016
- "Does HB2's Prohibition on State Discrimination Suits Apply to Pending Cases? ," April 2016
- "Eleventh Circuit Recognizes Pregnancy Complications as ADA Disability, but Says Employer Does Not Have to Waive Mandatory Overtime," April 2016
- "Social Media Policy Cannot Prevent Employee from Negative Responses to Customer Tweets ," April 2016
- "Fourth Circuit Says Employer's Response to Race Discrimination Claims Did Not Excuse Plaintiff's Failure to Allege Claims in EEOC Charge," April 2016
- "Second Circuit Finds Human Resource Manager Personally Liable for FMLA Violations ," April 2016
- "EEOC Not Required to Conciliate Class Claims On an Individual Basis," April 2016
- "New NC LGBT Legislation Eliminates All State Law Employment Discrimination Lawsuits ," April 2016



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- "DOL Issues Final "Persuader" Rules Governing Disclosure of Consultants in Antiunion Efforts ," March 2016
- "North Carolina Supreme Court Reaffirms Strict "Blue Pencil" Rule for Non-Competes," March 2016
- "Supreme Court Says Averages May be Used to Establish Classwide Liability," March 2016
- "Fourth Circuit Ducks Transgender Discrimination Coverage Under Title VII," March 2016
- "Sixth Circuit Says Residential Loan Underwriters Are Exempt From Overtime Requirements ," March 2016
- "Fourth Circuit Says Driving May Not Be Essential Job Function for Traveling Salesperson," March 2016
- "Computer Usage Records Not Enough to Place Employer on Notice of Unauthorized Overtime," March 2016
- "First Circuit Says Employees on Fluctuating Workweek Pay Plan May Receive Commissions or Incentive Bonuses ," March 2016
- "EEOC Sues Employers on Grounds That Sexual Orientation Bias is "Inherently" Sex Discrimination Under Title VII," March 2016
- "Warnings and Loss of Bonus Deemed Acceptable Response to Harassment Complaints," March 2016
- "Ninth Circuit Says DOL Tip Pooling Restrictions Apply Even if Employer Does Not Claim Tip Credit," February 2016
- "Final EEOC Charge Statistics for FY 2015 Show Increase in Retaliation Claims ," February 2016
- "Repeated Touching Enough to Justify Same-Sex Harassment Verdict," February 2016
- "North Carolina Federal Court Says State Wage Payment Claims Cannot Be Waived Through Private Release ," February 2016
- "WARN Act Does Not Prohibit Employers From Spacing Layoffs to Avoid Notice Requirements," February 2016
- "NLRB Says Agreement's Failure to Advise Employee of Right to File Claims with Board Violates Federal Labor Law," February 2016



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- "ADA Does Not Protect Nurses with Restricted Licenses Due to Narcotics Abuse," February 2016
- "EEOC Announces New Pay Disclosure Requirement," February 2016
- "Supreme Court Says No Subrogation Claims from Health Plan After Participant Spends Settlement," February 2016
- "Proposed Federal Rule Says Government Contractors Cannot Prevent Employee from Reporting Fraud, Waste or Abuse," February 2016
- "Alleged Harassers' Intent Irrelevant to Hostile Environment Determination," February 2016
- "Federal ALJ Allows OSHA to Seek Enterprise-Wide Abatement of Hazards Discovered at One Location," February 2016
- "Fourth Circuit Upholds Gender-Based Job Qualification ," February 2016
- "Federal OSHA Releases Online Injury Reporting Form," January 2016
- "EEOC Settles GINA Lawsuit Against Employer Using Outdated Medical Forms," January 2016
- "NLRB Again Says Employers Cannot Impose Blanket Ban on Employee Recording in Workplace," January 2016
- "Federal Court Rejects EEOC Suit Challenging Employee Wellness Plan," January 2016
- "Fourth Circuit Says Insurance Investigators Do Not Qualify for Overtime Exemption," January 2016
- "New NC "Ag-Gag" Law Might Conflict with NLRB View of Concerted Activity Rights," January 2016
- "DOT Lowers Random Drug Testing Rate to 25 percent for 2016," January 2016
- "Fourth Circuit Says Medical Case Managers Are Exempt Professionals ," January 2016
- "Seventh Circuit Tosses EEOC Lawsuit Challenging CVS Severance Agreements Due to Failure to Conciliate," January 2016
- "Supreme Court Agrees to Review EEOC's Obligation to Pay Employer's Attorneys Fees ," December 2015



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- "Job Applicants May Bring Disparate Impact Age Discrimination Claims," December 2015
- "Supreme Court Upholds Class Action Arbitration Waivers," December 2015
- "Tuition Reimbursement Requirement May Result in Loss of FLSA Overtime Exemption," December 2015
- "DOL Anticipates Late 2016 Issuance of Final Overtime Exemption Rules," December 2015
- "Fourth Circuit Says Mandatory Arbitration Agreement in Employee Handbook is Unenforceable," December 2015
- "EEOC Expanding Digital Charge Response System," December 2015
- "Refusal to Allow Employee to Rescind Resignation May Violate Title VII," December 2015
- "Third Circuit Finds Host Company Subject to Title VII Discrimination Claims by Temp," December 2015
- "Fourth Circuit Tosses Sexual Harassment Claim Based on Failure of Employee to Report Supervisor's Conduct," November 2015
- "Employees Using FMLA Leave Must Abide by Employer's Absence Notification System," November 2015
- "New OSHA Penalty Maximums Take Effect by August 1, 2016," November 2015
- "D.C. Circuit Upholds NLRB Ban on Various Employee Handbook Policies," November 2015
- "Supreme Court Agrees to Review Additional ACA Birth Control Mandate Cases," November 2015
- "EEOC Proposed Rules for Wellness Program Compliance with GINA," November 2015
- "Ninth Circuit Gives EEOC Broad Access to Employee Personal Information During Charge Investigation," November 2015
- "Fifth Circuit Repeats Rejection of NLRB Ban on Class Action Waivers," November 2015



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- "Seventh Circuit Backs Employer on Running of FMLA Statute of Limitations," November 2015
- "Employee on Extended Medical Leave Cannot Claim ADA Violation for Reduced Discretionary Bonus," November 2015
- "Employee Does Not Have to Seek Raise to Maintain Pay Discrimination Action," November 2015
- "Second Circuit Affirms NLRB View That Facebook "Likes" Are Protected Concerted Activity," November 2015
- "Full Eighth Circuit Rejects OSHA's Expansive Reading of Machine Guarding Standard ," October 2015
- "California Adopts Landmark Pay Differential Law," October 2015
- "IRS Announces 2016 Dollar Limitations for Retirement Plans," October 2015
- "Second Circuit Will Not Review Adequacy of EEOC Investigation," October 2015
- "NLRB Case Explains Agency's Position on Confidential Information Policies ," October 2015
- "OSHA Releases Annual Top Ten Citations List," October 2015
- "Supreme Court Agrees to Review California Rule Invalidating Contractor Arbitration Agreements," October 2015
- "NLRB Says Employee Protest of Government Action is Protected Concerted Activity," October 2015
- "NC Court of Appeals Finds \$100 Adequate Consideration to Support Non-Compete," October 2015
- "Employee's Change in Racial Self-Identification Cannot Support Discrimination Claim if Employer Unaware of Change," October 2015
- "Employee Assigned to Charlotte Operation But Working in South Carolina Cannot File North Carolina Comp Claim," October 2015
- "South Carolina Supreme Court Finds Employee Cannot Sue for Breach of Contract and Wrongful Discharge," October 2015
- "Changes to Pay Structure in Lieu of Requested Accommodations May Violate ADA and FMLA," September 2015



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- "EEOC Sues Employer for Requiring That Epileptic Employee Take Medication as a Condition of Continuing Employment," September 2015
- "OFCCP Issues Final Rule on Contractor Pay Transparency," September 2015
- "ADA May Require Accommodation of Deaf Medical Technician," September 2015
- "BMW and EEOC Resolve Lawsuit Over Criminal Background Checks," September 2015
- "NLRB Says Arbitration Agreement Without Carve-Out for Unfair Labor Charges Violates Federal Labor Law," September 2015
- "New Executive Order Mandates Sick Pay for Federal Contractors," September 2015
- "DOL Refuses to Extend Comment Period for Overtime Exemption Salary Changes," September 2015
- "EEOC Continues Attacks Against Employers Accused of Requiring Employee to Waive Rights to Bring Discrimination Charges," September 2015
- "NC Toughens Unemployment Benefit Eligibility Rules," September 2015
- "Terminating Employee on Day After Return From FMLA Leave Not Good Idea," September 2015
- "Despite Abercrombie, Fifth Circuit Again Rejects Claim From Employee Fired for Refusing to Read Rosary," September 2015
- "Employer Not Required to Accommodate Inability to Work Predictable Hours," September 2015
- "Last Minute Write-Up Has Unintended Negative Legal Results," August 2015
- "Appeals Court Upholds DOL Changes to Home Care Worker Exemption," August 2015
- "NLRB Expands Joint Employer Coverage," August 2015
- "NLRB Says Employer Cannot Suspend Employee for Posting Disciplinary Warning," August 2015



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- "Fourth Circuit Says Tip Pooling Rules Only Apply if Employer Claims Tip Credit," August 2015
- "OSHA Seeks to Extend Deadline for Citations Against Employers for Recordkeeping Violations," August 2015
- "NLRB Says Filing Class Action Lawsuit is Protected Concerted Activity," August 2015
- "Federal Judge Rejects Challenge to NLRB Ambush Election Rules," August 2015
- "Fourth Circuit Rejects "Manager Rule" Exception to Title VII Retaliation Claims," August 2015
- "Make Sure your Company is Using Updated FMLA Medical Certification Forms," August 2015
- "Third Circuit Says Employer Did Not Retaliate Against Employee by Disallowing Tape Recording of Disciplinary Meeting," August 2015
- "Does NC Law Prohibit Employers From Acting on Drunk Facebook Behavior?", August 2015
- "Confederate Flag License Plate Does Not Create a Hostile Work Environment Based on Race," August 2015
- "Employer Potentially Liable for Harassment of Supervisor by Her Subordinates," August 2015
- "Fourth Circuit Says Placing Employee on PIP Not Discrimination Under Title VII," August 2015
- "Fourth Circuit Says Host User of Temporary Employee Liable for Title VII Violations," July 2015
- "EEOC Issues Overview on LGBT Rights Under Title VII," July 2015
- "DOL Issues Warning to Companies Misclassifying Employees as Independent Contractors," July 2015
- "Fifth Circuit Sanctions DOL for Frivolous Claims Against Employer," July 2015
- "Second Circuit Rejects DOL Test on Intern Pay," July 2015
- "NLRB Says Employers Cannot Ask Employees Not to Discuss Internal Investigation," July 2015



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- "DOL Proposed Overtime Rules Raise Possibility of Expansion of Computer Professional Exemption," July 2015
- "Fourth Circuit Holds Employer to High Standard for Responding to Anonymous Workplace Harassment," July 2015
- "NLRB Nixes Employer Policy Prohibiting Employee Conflicts of Interest," July 2015
- "Same-Sex Marriage Ruling - What Does It Mean for Employee Benefit Plans?", July 2015
- "DOL Releases Proposed White Collar Overtime Exemption Rule Changes," July 2015
- "Colorado Decision Shows Continuing Tension Between Legal Marijuana and Employer Drug Testing," June 2015
- "NLRB Says Employer Cannot Rescind Contract for Employee Who Wrote Complaining Email to Co-Workers," June 2015
- "New SDS Disclosures Require Changes to Overall Hazard Communication Policy," June 2015
- "Health Insurance Premium Subsidies Upheld by Supreme Court," June 2015
- "A Reminder to Employers That FLSA Claims Cannot Be Waived in Most Circumstances," June 2015
- "Cumulative Harassment Theory Must Include Individual Claims That Meet Severe and Pervasive Threshold," June 2015
- "Deferred Compensation - Updated IRS Audit Guide," June 2015
- "Supreme Court Agrees to Review Another Donning/Doffing Case," June 2015
- "NC General Assembly Overrides Veto of Property Protection Bill," June 2015
- "Federal Judge Rejects Challenge to NLRB Ambush Election Rules," June 2015
- "Second Circuit Upholds Employers' Use of Effective ADA Accommodation Over "Perfect" One Sought by Employee," June 2015



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- "OSHA Issues Best Practices for Transgendered Employee Restroom Use," June 2015
- "DOL Issues Guidance on Contractor Compliance Executive Order," June 2015
- "Supreme Court Agrees With EEOC on Duty to Accommodate Suspected Religious Practices," June 2015
- "Will DOL's Overtime Rule Revisions Fix the Outside Salesperson Exemption?", May 2015
- "Fourth Circuit Adopts Lower Burden for Plaintiffs to Survive Summary Judgment on Retaliation Claims," May 2015
- "Supreme Court Affirms Duty to Monitor Plan Investments," May 2015
- "Federal Court Rejects Challenge to Contractor Labor Posting Requirements," May 2015
- "NLRB Says Letting Co-Worker Know About Job Posting is Protected Activity Under Federal Labor Law," May 2015
- "Supreme Court to Determine if Offer of Relief to Named Plaintiff Moots Class Action," May 2015
- "Delay in Calling 911 After Accident Results in Willful OSHA Violation," May 2015
- "Telling Harasser to Stop Conduct Protects Employee from Retaliation," May 2015
- "Fourth Circuit Reverses Position on Single Racial Slur as Sufficient to Create Hostile Work Environment," May 2015
- "Federal Court Won't Block NLRB Ambush Election Rules," May 2015
- "Supreme Court to Decide When Limitations Period Begins Running for Constructive Discharge Discrimination Claims," May 2015
- "Do Your Employee Confidential Information Agreements Protect Your Social Media Assets?", May 2015
- "Harassing Act Directed at Another Employee Enough to Revive Plaintiff's Time Barred Harassment Claims," May 2015
- "Informal Complaint to Supervisor About Pay Prohibits Retaliation Under the FLSA," May 2015



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- "Supreme Court Requires Narrow Proof of EEOC Conciliation Efforts," May 2015
- "EEOC Requires Employer to Provide Restroom Access to Transgendered Employee Based on Gender Identity," April 2015
- "Eighth Circuit Says Effects of Obesity on Kidney Functions Not FMLA Serious Health Condition," April 2015
- "EEOC Issues Proposed Rules for Wellness Program Compliance Under the ADA," April 2015
- "Seller of Business is Special Circumstance That Justified Termination Following Expiration of Contract," April 2015
- "ALJ Nixes Hospital's Broad English-Only Rule Under NLRA," April 2015
- "Sixth Circuit Rejects EEOC's Demand for Telecommuting as ADA Accommodation," April 2015
- "Deceased Employee's ADA Claim Becomes Property of Estate," April 2015
- "NLRB Rejects Profane Employee Facebook Rant as Grounds for Termination," April 2015
- "SEC Says Employer's Confidentiality Agreement Violates Dodd-Frank," April 2015
- "NLRB General Counsel Releases Memo on Employee Handbook Conflicts With Employee Concerted Activity Rights," April 2015
- "Ninth Circuit Defers to DOL View that Automobile Service Advisors Have No Industry Overtime Exemption," April 2015
- "NC Court of Appeals Finds Freight Broker Liable for Driver's Workers' Comp Claim," April 2015
- "EEOC's Proposed Rules for Employer Wellness Programs at OMB for Approval," March 2015
- "Employers Asserting ADA Direct Threat Defense Do Not Have to Prove Actual Threat," March 2015
- "Supreme Court Allows Employee to Claim Pregnancy Discrimination Based on Employers' Accommodations to Other Persons," March 2015



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- "Failure to Comply with Terms of EEOC Consent Order Costs Employer \$400,000 in Agency's Costs," March 2015
- "Fourth Circuit Says Social Anxiety Disorder Is ADA Disability," March 2015
- "NC OSHA Posts Online Reporting Form for Workplace Hospitalizations," March 2015
- "Fourth Circuit Affirms Dismissal of Age Discrimination Claim Despite Manager's Comments About Need to Retire," March 2015
- "South Carolina Does Not Protect Employee Against Discharge for Reporting Crime to Police," March 2015
- "Supreme Court Says Agencies Can Change Rule Interpretation Without Notice and Comment," March 2015
- "Michel Vanesse Featured in Carolina Banker," March 2015
- "Teacher With Fear of Children Not Entitled to ADA Accommodation," March 2015
- "NLRB Restricts Company From Requiring Employee to Keep Performance Improvement Plan Confidential," March 2015
- "DOL Amends Rules to Extend FMLA Benefits to More Same-Sex Spouses," March 2015
- "Complaint to Managers Below Level of Alleged Harasser Not Effective Use of Company's Policy," February 2015
- "DHS Extends Eligibility for Employment to Certain H-4 Dependent Spouses of H-1B Holders Seeking Permanent Residence," February 2015
- "Fourth Circuit Slaps EEOC for Use of Misleading, Incomplete and Error-Riddled Expert Testimony," February 2015
- "Employer on OSHA Severe Violator List Fined \$1.76 Million Over Widespread Employee Injuries," February 2015
- "EEOC Loses Argument That Company Converting Employees to Contractors Cannot Require Release of Pending Discrimination Claims," February 2015
- "Can Employers Be Sued by Adulterous Employee's Spouse?", February 2015



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- "Fifth Circuit Recognizes Color Discrimination Claim Even in the Absence of Evidence of Race Discrimination," February 2015
- "White Collar Overtime Exemption Overhaul May Include Big Increase in Minimum Salary Requirements," February 2015
- "Employee Refusing to Provide SSN Has No Religious Discrimination Claim," February 2015
- "OFCCP Proposes Update to Old Sex Discrimination Guidelines," February 2015
- "Sixth Circuit Says Ineligible Employee May Still Enjoy FMLA Leave Rights Based on Estoppel Argument," February 2015
- "Fourth Circuit Upholds Federal Criminal Conviction for Accessing Former Employer's Database," February 2015
- "Equitable Defenses Do Not Apply to FLSA Overtime Claim," January 2015
- "Disclosure of Charging Party's Name in Securities Filing Can Constitute Retaliation Under Title VII," January 2015
- "Ban on Employee Salary Discussion Violates NLRA," January 2015
- "Employee's Resignation in Midst of Interactive Accommodation Process Dooms ADA Claim," January 2015
- "Federal Judge Invalidates DOL's Revised Definition of Companionship Services," January 2015
- "Fourth Circuit Says Verbal Conduct Can Rise to Level of Actionable Harassment," January 2015
- "Plaintiffs' Class Action Claims Target Background Checks," January 2015
- "Employee's Delay and Employer's Prompt Response Undermine Liability for Sexual Harassment," January 2015
- "Sexualized Conduct Absent Sexual Desire Not Actionable Harassment Under Title VII," January 2015
- "DOJ Says Gender Identity Discrimination Violates Title VII," January 2015
- "D.C. Circuit Upholds OFCCP's Disability Affirmative Action Rules," January 2015



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- "Reminder: New OSHA Recordkeeping Rules Took Effect January 1," January 2015

PUBLICATIONS

- "Michel Vanesse Featured in Carolina Banker," March 2015
- "The Global Reach of IRC Section 409A: Newly Effective Rules Governing Foreign Deferred Compensation Arrangements Present Operational Challenges and Beyond," June 2009
- "Jobs Act of 2004: Implications and Questions Regarding Nonqualified Deferred Compensation Plans," March 2005
- "Are Cash Balance Plans Really Unlawful?," December 2003
- "New U.S. - U.K. Tax Treaty Generally Avoids Double taxation of Pension Contributions and Distributions," October 2003
- "The Continuing Controversy Concerning the Inclusion of Equity-Based Compensation in Cost-Sharing Agreements," March 2003
- "Global Equity Plans - The Challenges of Implementation," December 2001

SPEAKING ENGAGEMENTS

- "Background Checks and the Fair Credit Reporting Act: Key Issues for North American Employers," Employment Law Alliance, March 2015
- "ACC-Charlotte CLE," ACC-Charlotte CLE
- "Corrections of Operational Failures Under Code Section 409A," Corrections of Operational Failures Under Code Section 409A, March 2012
- "Employee Benefits Issues Arising in Transactions," Employee Benefits Issues Arising in Transactions, February 2007



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- "ERISA: Impact of the Supreme Court decision in LaRue v. De Wolff on Your Practice," ERISA: Impact of the Supreme Court decision in LaRue v. De Wolff on Your Practice, May 2008
- "Recent Benefits Developments," Recent Benefits Developments, April 2010
- "Section 409A - International Compliance," Section 409A - International Compliance, June 2009

MEMBERSHIPS

- French-American Chamber of Commerce (FACC) Carolinas, Board of Directors, 2019-present
- National Association of Stock Plan Professionals