



MINNEAPOLIS 80 South Eighth Street 3100 IDS Center Minneapolis, MN 55402

T: 612.632.3247 F: 612.632.4247

Assistant Jennifer Flowers 816.460.5646

#### **PRACTICE AREAS**

Class, Collective & PAGA Representative Actions Traditional Labor Higher Education Immigration Employment & Labor

**Employment Litigation** 

Nonprofit & Tax-Exempt Organizations

**Community Banking** 

Health Law

Litigation

Franchise Employment & Labor Issues

#### INDUSTRIES

Higher Education Manufacturing Health Care Education

# Mark S. Mathison

Partner | mark.mathison@lathropgpm.com

Mark Mathison advises and represents a wide range of employers, including corporations, nonprofits, and educational organizations, on labor and employment law issues in the workplace. Mark's practice has a significant focus on traditional labor law; he has been a contributing editor to *The Developing Labor Law*, the premier legal resource on private sector labor law. He is a partner in the firm's broader Labor, Employment and Higher Education practice and an MSBA-certified labor and employment law specialist. Mark was a founding and longtime board member of the International Spanish Language Academy (ISLA), a Minnesota K-6 Charter School, and serves on ISLA's Governance and Human Resources Committees.

Mark is highly experienced in litigation and advising for unionized and nonunionized employers that include private corporations, public entities, colleges and universities, nonprofit organizations, charter schools, health care providers, manufacturers, construction contractors, and professional employer organizations (PEO's). In particular, he has a great deal of experience working with employers on traditional labor law matters such as union-related strategies, union election and decertification campaigns, collective bargaining and labor negotiations, unfair labor practice charges and trials, regulatory matters and administrative hearings, grievance arbitrations, strike litigation, and Taft Hartley multiemployer fund suits. Mark is a creative negotiator in a variety of labor and employment litigation settings, as well as with various methods of alternative dispute resolution like mediation and arbitration.



#### **COURT MEMBERSHIPS**

- Minnesota
- U.S. District Court for the Northern District of Illinois
- U.S. District Court for the Southern District of Illinois
- U.S. District Court for the District of Minnesota
- U.S. District Court for the Eastern District of Wisconsin

U.S. District Court for the Western District of Wisconsin

#### EDUCATION

Hamline University School of Law, J.D., *magna cum laude*, 1998

University of Minnesota, B.A., *summa cum laude*, 1995

A significant part of Mark's practice involves proactively advising employers on prevention and compliance. He represents employers in relation to the full spectrum of workplace law, including federal and state labor laws, immigration enforcement, discrimination, independent contractor classification issues, disability and leave laws, and wage and hour matters. Clients often seek Mark's assistance with drafting, negotiating, and enforcing union contracts, workplace policies, employment and noncompete agreements, and handbooks. He regularly advises businesses on union-related issues in mergers and acquisitions.

Before becoming an attorney, Mark had a career in corporate management relating to labor and employment in food service, retail, and sales. Clients appreciate his practical insights into their goals and concerns developed from this management experience.

## Events

- Employment & Labor Law Seminar Minneapolis Area May 4, 2022
- Employment & Labor Law Seminar Kansas City Area April 12, 2022
- Lathrop GPM Employment and Labor Law Update November 2, 2021
- Guidance on Return to Work Issues in the COVID-19 Vaccination Era May 19, 2021
- Webinar: Guidance for Employers on Reopening and Returning to Work
  - May 12, 2020
- COVID-19 Webinar: The Employer's Perspective March 26, 2020
- 2019 Employment and Labor Law Seminar April 9, 2019
- Privacy and Data Security Workshop February 21, 2019
- Employment Law Panel Discussion: Employment Litigation & Class Actions - Prevent Them, Manage Them, Win Them October 27, 2016



- Franchise Joint Employer and Vicarious Liability Threats: Practical Steps to Minimize Risk March 18, 2015
- Unionization On Campus: What to Expect in 2015 February 10, 2015
- 2014 TCHRA Spring Conference May 20, 2014
- Higher Education Breakfast Briefing Preparing for and Responding to Union Organizing Activity on Campus May 7, 2014
- The NLRB Comes to Campus: An Update on Union Activity at U.S. Institutions of Higher Education March 19, 2014
- Human Resources Compliance Breakfast Briefing & Webinar Series: Independent Contractor Compliance November 12, 2013
- Human Resources Compliance Breakfast Briefing & Webinar Series: Independent Contractor Compliance November 5, 2013
- Human Resources Compliance Breakfast Briefing & Webinar Series: Social Media & Technology Risks January 8, 2013
- Legal Update for the Modern Workplace: New Developments in the Labor Law and How They Affect Every Union and Non-Union Employer October 3, 2012
- Independent Contractor Status Still Under Scrutiny: How to Avoid Costly Mistakes May 17, 2011

## **Presentations**

- Co-presenter, "Current, and Future, Wage and Hour Challenges," and "National Labor Relations Board Puts All Employers Under the Microscope," Lathrop GPM 2023 Employment & Labor Law Seminar, October 24, 2023 (Minneapolis)
- Presenter, "Labor Law Update," Lathrop GPM 2023 Employment & Labor Law Seminar, October 24, 2023 (Minneapolis)
- Presenter, "Sympathy Strike? Dealing with Protected Activity by Employees in Union & Non-Union Settings," Lathrop GPM Health Law Seminar, September 22, 2022



- Presenter, "Labor Law Update," Lathrop GPM 2022 Employment & Labor Law Seminar, May 4, 2022 (Minneapolis)
- Presenter, "NLRB General Counsel Opines That College Athletes Are Employees," ELA Webinar, October 26, 2021
- Presenter, "Today's Unemployment Claims: An Employer's Guide," LeadingAge Minnesota, November 11, 2020
- Presenter, "New Anti-Retaliation Law for NH's and HWS," LeadingAge Minnesota, August 15, 2019
- Panelist, "Wage Theft Law and the Minneapolis Leave Ordinance," Associated General Contractors of Minnesota, July 24, 2019
- Co-presenter, "I-9 Compliance and Audits: Immigration Enforcement Risk Management for Employers," GPM Employment and Labor Law Seminar, April 9, 2019
- Co-presenter, "Labor Law Update: How the NLRB is Changing Under the Trump Administration," Minnesota College and University Professional Association for Human Resources, February 22, 2018
- Presenter, "DOL Final Rule on White Collar Exemptions: What Higher Education Institutions Need to Know," MN College and University Professional Association for Human Resources, November 1, 2016
- Presenter, "What the NLRB Ruling on Student Assistants Means for Private Colleges and Universities," Employment Law Alliance, September 13, 2016
- Co-panelist, "Franchise Joint Employer and Vicarious Liability Threats: Practical Steps to Minimize Risk," GPM Franchise & Distribution Practice Group, Webinar, March 18, 2015
- Co-panelist, "Franchising Under Attack! Challenges to the Franchise Business Model," International Franchise Association luncheon, November 18, 2014
- Co-presenter, "Labor Law Update," GPM Employment and Labor Law Seminar, October 29, 2014
- Co-presenter, "Non-Union Employers, Unions, and the Labor Law: Preparing for and Responding to Collective Activity," GPM Employment and Labor Law Seminar, October 29, 2014
- "Inability to Pay v. Competitive Disadvantage: Magic Words at the Bargaining Table," Presentation to the American Bar Association Committee on Development of the Law Under the National Labor Relations Act, Midwinter Meeting, February 26, 2014



- Presenter, "Independent Contractor Compliance," Human Resources Compliance Breakfast Briefing & Webinar Series, November 5, 2013
- Co-presenter, "Employee Benefits: New Same-Sex Marriage Law," Minnesota Chamber of Commerce, September 10, 2013
- Co-presenter, "The NLRB Said What? Important Labor Law Developments for Union and Nonunion Employers," GPM Employment Law Seminar, April 1, 2013
- Presenter, "Labor Law Update," GPM Employment Law Seminar, April 1, 2013
- Co-presenter, "Social Media Compliance: Tips for Hiring and Managing Employees in a Rapidly Changing High Tech Age," GPM Employment Law Seminar, April 1, 2013
- Panelist, "The Implications of Noel Canning and Challenges to The Board's Recent Rules," Presentation to the American Bar Association Committee on Practice and Procedure Under the National Labor Relations Act Midwinter Meeting, March 2, 2013
- Presenter, "NLRB Update: New Procedures in Representation Cases (and More)," MSBA Labor & Employment CLE, May 1, 2012
- Co-presenter, "Managing Critical Wage and Hour Compliance Issues in Residential Workplace," 2011 ARRM Conference, May 18, 2011
- Presenter, "Recent Employment and Labor Law Developments," College and University Professional Association—Minnesota Chapter for Human Resources, November 18, 2010
- Presenter, "Recent Employment and Labor Law Developments," Society for Human Resource Management—Central Minnesota, October 21, 2010
- Co-presenter, "State of the Unions and Other Recent Developments in Labor and Employment Law," Gray Plant Mooty 14th Annual Health Law Conference, July 15, 2010
- Presenter, "Labor Law Update," GPM 2010 Employment Law Seminar, April 21, 2010
- Presenter, "Employee Free Choice Act and Employer Choices: Labor Relations in 2009 and Beyond," Franchise Business Network International Franchise Association, April 1, 2009
- Presenter, "Employer Choices and the EFCA: What You Can Do Now to Promote a Better Working Relationship with Your Employees," Aging Services of Minnesota (Labor Law School), January 1, 2009



- Presenter, "Employer Choices and the Employee Free Choice Act: Should You Act Now to Preserve a Union-Free Future?," 2009 Business Law Institute, January 1, 2009
- Presenter, "Recent Developments in Labor Law," The Hennepin County Bar Association Labor & Employment Law Section, January 1, 2008
- Presenter, "Getting Along with Norma Rae: Labor Law Issues for Non-Unionized Employers," Care Providers of Minnesota Convention, January 1, 2004
- Presenter, "In English with Subtitles: Speak English Only and Language Proficiency Rules in Employment," Care Providers of Minnesota Convention, January 1, 2004
- Presenter, "Understanding the New FLSA Regulations: Who Gets Overtime Now?," Minnesota Hospital Association, September 2004; Minnesota Home Care Association, January 1, 2004

# **Client Alerts And Blog Posts**

- COVID-19 Vaccinations and the Workplace: Critical Updates March 25, 2021
- New Year, New Administration Bringing Changes to Legal Landscape for Employers January 22, 2021
- COVID-19 Vaccinations and the Workplace: What You Need to Know Right Now December 22, 2020
- Responding to Employee Reluctance, Refusal or Inability to Remain or Return to Work During the Pandemic April 17, 2020
- Employment Law Alert: The Pendulum Swings Back: NLRB Issues Sweeping Decisions Affecting Union and Non-Union Businesses October 3, 2019
- Minneapolis Passes Wage Theft Ordinance, Adding Requirements Beyond State Law August 9, 2019
- Do Your Employees Know When Their Commissions and Bonuses are Earned? Dealing with Minnesotas New Wage Theft Statute July 26, 2019
- A BREAK IN THE DAM: U.S. SUPREME COURT RULES PUBLIC UNIONS MAY NO LONGER COMPEL PAYMENTS FROM NON-MEMBERS



June 27, 2018

- NLRB Chair Confirms Board Will Do Rare Rulemaking on Joint Employer Standard June 6, 2018
- Employment Law Alert: NLRB Vacates Hy-Brand; Returns to Browning-Ferris Joint Employer Standard February 27, 2018
- Employment Law Alert: NLRB Establishes New Standard Governing Workplace Policies December 21, 2017
- Employment Law Alert: NLRB Overrules Browning-Ferris Industries' Joint Employer Standard December 21, 2017
- Employment Law Alert: NLRB Rejects "Micro-Unit" Community of Interest Standard December 21, 2017
- Employer Held Liable in Tip Pooling Class Action August 7, 2017
- Department of Labor Withdraws Guidance on Joint Employer and Independent Contractor Liability June 9, 2017
- President Trump Blocks Federal Contractor Blacklisting Rule April 5, 2017
- Court Says Non-Minneapolis Employers Not Likely Required to Comply with City's Paid Sick Time Ordinance; New I-9 Form Must Now Be Used January 20, 2017
- White House Announces Actions Against Wage Collusion, Noncompetes and Other Anticompetitive Practices October 28, 2016
- Employment Law Alert: California Passes Law Prohibiting Choice of Law and Venue in Employment Agreements October 26, 2016
- Higher Education Alert: Student Assistants at Private Universities Are "Employees" for Purposes of Collective Bargaining, NLRB Rules
  August 25, 2016

August 25, 2016

 \$1.4 Million in Overtime Damages: Joint Employer Risks Continue Prominent Rise and Expansion August 5, 2016



- Nonprofit Alert: Department of Labor Issues Guidance for Nonprofits on New Overtime Rule June 14, 2016
- "In the Matter of The trustees of Columbia University in the City of New York, and Graduate Workers of Columbia--GWC, UAW, Local 925," Amicus Brief by the Higher Education Council of the Employment Law Alliance, National Labor Relations Board March 2, 2016
- Court Rules that Minnesota Unemployment Judges Have a Duty to Assist Pro Se Claimants with Mental Health Issues in Presenting Evidence February 12, 2016
- The Labor Law Versus Common Sense: Do You Know Who Your Supervisors Are? December 10, 2015
- Is There a Union Flying Under Your Radar? September 24, 2015
- GPM Attorney Mark Mathison on Regulatory Change Expanding Overtime August 10, 2015
- DOL Overtime Rule Could Add Overtime Pay for Nearly 5 Million White Collar Employees July 8, 2015
- Recent NLRB General Counsel Report Means It's Time to Review and Update Those Employee Handbooks Again May 11, 2015
- Joint Employment: Whose Employees Are You Liable For? April 24, 2015
- Top Five Employer To-Do Items in Todays Union Organizing Environment January 29, 2015
- Are Your Adjuncts Going for a Walk? Get Prepared for National Adjunct Walkout Day, February 25, 2015 January 22, 2015
- The NLRBs Busy Holiday Season December 22, 2014
- Employee Voting Rights: What Employers Need to Know October 28, 2014
- GPM Labor & Higher Ed Teams Assist St. Thomas in Landmark Union Election Result



July 23, 2014

- The Developing Labor Law, contributing editor, Fifth ed. & supplement June 24, 2014
- New Minnesota Law Should Prompt Employers To Review and Modify Employee Handbooks and Practices May 14, 2014
- Game On, Wildcats! Labor Board Orders Union Election for Northwestern Football Players April 2, 2014
- "In the Matter of Pacific Lutheran University, and Service Employees International Union, Local 925," Amicus Brief [on Faculty Union Issue] by the Higher Education Council of the Employment Law Alliance, National Labor Relations Board March 28, 2014
- A New Hurdle For Higher Education: College Football Players Huddle Up for Union Organizing February 6, 2014
- Labor Board Poised to Enable Union Organizing of Faculty, Workforce at Private Religious Schools November 6, 2013
- Legal Issues with Employee Surveillance September 18, 2013
- "National Origin, Language & Religion: Legally Managing Diversity at Work," HR Specialist—Minnesota Employment Law August 1, 2013
- Change To Minnesota Sick Leave Law Begins August 1 July 11, 2013
- Minnesota Lawmakers Consider Outlawing Most Noncompete Agreements February 13, 2013
- "Pot Predicament," InsideCounsel February 1, 2013
- Employment Edge 128th Edition—NLRB Again Postpones Deadline for Posting Notice of Collective Bargaining Rights January 4, 2013
- WHAT THE LEGALIZATION OF MARIJUANA MEANS FOR EMPLOYERS WITH PEOPLE WORKING IN WASHINGTON AND COLORADO November 21, 2012



- Seize the Day: Chicago Public Schools Radical Performance Evaluation Proposal Highlights Unprecedented Bargaining Opportunities for Unionized Employers September 14, 2012
- New Minnesota Unemployment Provision Takes Effect, But What Effect Will That Be? July 5, 2012
- "Bargaining With Labor Unions In A Changing Work Environment," Minnesota Employment Law May 1, 2012
- Federal Court of Appeals Blocks NLRBs Notice Posting Rule, But New Election Rules Take Effect on April 30 April 18, 2012
- Employment Edge 129th Edition—Federal Court of Appeals Blocks NLRB's Notice Posting Rule, But New Election Rules Take Effect on April 30 April 18, 2012
- "Plan Now For Compliance: Private Employers—Unionized Or Not —Must Soon Post The NLRB Notice Of Collective Bargaining Rights," Business Central January 15, 2012
- NLRB Again Postpones Deadline for Posting Notice of Collective Bargaining Rights January 3, 2012
- Employment Edge 126th Edition—NLRB Postpones Deadline for Employers to Post Notice of Collective Bargaining Rights October 14, 2011
- Employment Edge 124th Edition—NLRB Issues Notice of Collective Bargaining Rights Now Required of Private Employers September 16, 2011
- The cultural struggle over collective bargaining rights September 1, 2011
- NLRB Guidance on Social Media and the Labor Law August 23, 2011
- New Guidance on Social Media and the Labor Law August 23, 2011
- "Check Your Leave Policies! EEOC Looks At Return-To-Work Issues," Minnesota Employment Law July 1, 2011



- "When Customers Practice Discrimination, Employer May Pay," Business Management Daily February 19, 2011
- "Know The NLRA: Unionized Or Not, Labor Law Applies To You," Business Management Daily January 24, 2011
- "When Customers Practice Discrimination, Employer May Pay," Minnesota Employment Law January 1, 2011
- "Reader's Forum: Author's Response," Bench & Bar of Minnesota December 1, 2010
- "Know The NLRA: Unionized Or Not, Labor Law Applies To You," Minnesota Employment Law December 1, 2010
- Employment Edge 117th Edition—Firing For Facebook Posts Can Get You In Trouble With The National Labor Relations Board November 16, 2010
- Employment Edge 116th Edition—Minnesota Voting Leave Changes for 2010 October 28, 2010
- Employment Edge 115th Edition—Customers' Discriminatory Requests May Run Employers Into Legal Trouble October 18, 2010
- Employment Edge 113th Edition—Non-union Employer Pays \$900,000 to Settle Labor Board Case July 19, 2010
- "How To Decide: Should Employers Arbitrate Workplace Disputes?," Minnesota Employment Law June 1, 2010
- "What 14 Penn Plaza LLC v. Pyett Means for Employers: Balancing Interests in a Landscape of Uncertainty," Journal of Labor & Employment Law June 1, 2010
- "What 14 Penn Plaza Means for Employers: Balancing Interests in a Landscape of Uncertainty," 25 ABA J. Lab. & Emp. L. 173 (2010) January 1, 2010
- Employment Edge 101st Edition (Immigration Issue)-How Employers Should Respond to Recent Immigration Law Enforcement Changes Targeting Employers May 21, 2009



- "Employee Free Choice Act Re-introduced in Congress," MinnesotaBusinessonline "Expert's Forum" April 1, 2009
- "EFCA Re-Introduced In Congress," www.MinnesotaBusiness.com April 1, 2009
- Employment Edge 97th Edition Employee Free Choice Act Introduced In Congress: What Employers Can Do March 11, 2009
- "Eyes Wide Open—Uncle Sam is Watching You," Catering Magazine March 1, 2009
- Employment Edge 95th Edition USCIS Delays Implementation of New Form I-9, Employment Eligibility Verification February 2, 2009
- "Not A Union Employer: Proposed EFCA Could Soon Change That, " Minnesota Employment Law February 1, 2009
- "Union Organizing In A New Environment," Employment.Law360. com

January 29, 2009

- "2009 Cumulative Supplement to The Developing Labor Law," Fifth Ed., Contributing Editor January 1, 2009
- "Toolkit Tactics: Law—Go Beyond Noncompetes to Protect Your Business," Upsize Minnesota December 1, 2008
- Employment Edge 89th Edition Major Changes to the Labor Law Are On Their Way – All Employers (Union and Non-Union) Need to Be Ready

November 14, 2008

- "Newspaper Fight Holds Lessons For Protecting Business," Upsize Minnesota February 1, 2008
- "Par Ridder and the Newspaper Wars: Lessons for Minnesota Businesses About Fair and Unfair Competition," Upsize Minnesota February 1, 2008
- Employment Edge 79th Edition (Immigration Issue) New Form I-9 Published November 1, 2007



- Employment Edge 78th Edition (Immigration Issue) No-Match Safe Harbor Rule Blocked Indefinitely by Federal Court October 1, 2007
- Employment Edge 75th Edition (Immigration Issue) Special Alert: Federal Judge Blocks "No-Match" Regulation September 1, 2007
- Employment Edge 74th Edition (Immigration Issue) DHS Releases Final "No-Match" Regulation August 1, 2007
- Employment Edge Special Alert: New Federal Minimum Wage; Employers Must Post New Poster July 9, 2007
- "Creditors Claims," Minnesota State Bar Association, contributing author, Chapter 3, Minnesota Estate Administration, 2d ed. January 1, 2002
- "Who Qualifies? Defining 'Individual with a Disability' under the ADA," Bench & Bar of Minnesota October 1, 1999

## In The News

- "Social Media & Your Job: Tips To Avoid Trouble," WCCO CBS Minnesota November 8, 2017
- "Top 4 Things Franchisees Need to Know About Current Employment Law," 1851 Franchise January 4, 2016
- "Good Questions: Voting on the Clock," television segment, WCCO CBS Minnesota October 31, 2014
- Amicus Brief Filed by ELA in the Pending NLRB Matter Between Northwestern University and College Athletes Players Association July 9, 2014
- "Sunday Q&A: Attorney Mark Mathison on Union Law," Star Tribune March 30, 2014
- "Northwestern Player Unionization Could Cause Sweeping Changes," MPR News March 27, 2014
- "Bill Would Mandate Sick Leave at Most Firms," Minnesota Lawyer March 24, 2014



- "Pot Predicament," Inside Counsel February 1, 2013
- "Tempting, But Tricky: Attorneys Warn Employers To Steer Clear Of Online Labor Movements," Minneapolis/St. Paul Business Journal May 6, 2011
- "NLRB Chairman Is Glad Americans Talking About Collective Bargaining," Pioneer Press April 1, 2011
- "Anatomy Of Deal: Nurses Ceded Biggest Demand," Star Tribune July 2, 2010
- "Nurses Union Asks For 'Unfair Labor Practices' Strike," Minnesota Public Radio June 25, 2010
- "Minnesota Nurses Prepare For 2nd Strike, Seek Protection From Replacements," KARE-TV June 16, 2010
- "Twin Cities Nurses To Vote On 2nd Strike," Star Tribune June 14, 2010
- "Twin Cities Nurses Strike Stays Calm, But Pressure On," Star Tribune June 11, 2010
- "Countdown Continues On Nurses' Strike," Star Tribune May 24, 2010
- "Twin Cities Nurses Reject Contract Offer, Setting The Stage For A Strike," Star Tribune May 20, 2010
- "Twin Cities Nurses' Union Eyes 1-Day Walkout," Star Tribune May 17, 2010

# News Releases

- Eight Lathrop GPM Attorneys Named Lawyer of the Year, 89 Ranked as The Best Lawyers in America© August 17, 2023
- 23 Lathrop GPM Attorneys in Minneapolis Recognized for 2022 Pro Bono Service June 5, 2023
- Six Lathrop GPM Attorneys Named Lawyer of the Year, 95 Ranked as The Best Lawyers in America© August 18, 2022



- Seven Lathrop GPM Attorneys Named Lawyer of the Year, 100 Ranked as The Best Lawyers in America© August 19, 2021
- Lathrop GPM Attorneys in Minnesota Recognized for Pro Bono Service June 15, 2021
- Lathrop GPM Attorneys in Minnesota Recognized for Pro Bono Service June 30, 2020
- Attorneys Recognized for Pro Bono Service June 14, 2019
- Gray Plant Mooty Offers Training to Prevent and Respond to Sexual Harassment in the Workplace February 13, 2018
- Gray Plant Mooty's Anderson, Lehmann, Mathison are MSBA Certified Labor and Employment Law Specialists April 4, 2012

# **Professional Affiliations**

- American Bar Association
- Federal Bar Association
- Minnesota State Bar Association
- Governing Council, MSBA Section of Labor & Employment
- Hennepin County Bar Association
- Minnesota Management Attorneys Association
- Employment Law Alliance, Higher Education Council

## **Community Involvement**

- Governing Council, MSBA Section of Labor & Employment
- International Spanish Language Academy, Founding Board Member & Governance Committee Chair

#### Honors

Selected among *The Best Lawyers in America*®, 2022-2024



- Minnesota State Bar Association, "North Star Lawyers," 2018-2020, 2023
- Minnesota Monthly, "Minnesota's Top Lawyers," 2022
- Labor and Employment Law Specialist, certified by the Minnesota State Bar Association
- Excellence in Labor Law citation, MSBA Section of Labor & Employment Law