

PARTNER

Timothy P. Van Dyck

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OVERVIEW

Tim Van Dyck, Employment & Labor Practice Area Leader, is a seasoned, Chambers USA-recognized trial lawyer who defends employers of all sizes against difficult and often sensitive employment disputes in the state and federal courts of Massachusetts and throughout the U.S. With more than 30 years of experience under his belt, Tim has tried over 20 cases to verdict, involving sexual harassment, discrimination and retaliation claims, contractual disputes and other contentious employment claims. He also regularly prosecutes and defends non-compete, non-solicit and trade secret matters.

Tim's clients range from small, local start-ups to global Fortune 100 corporations. These include financial institutions, telecoms and clients in the healthcare sector. In his capacity as trusted advisor, he is regularly called upon to conduct delicate internal investigations on behalf of his clients, often involving executives at the C-suite level. In addition, Tim serves as regional employment litigation counsel for the largest for-profit healthcare system in the U.S. and as employment litigation counsel for a major telecomm for claims throughout New England.

For corporate clients looking to avoid litigation, Tim leads the implementation of rigorous training and compliance programs and provides practical advice and counseling on a daily basis so that his clients stay out of trouble with their employees. Tim regularly negotiates and drafts separation agreements and other employment-related contracts, leveraging his courtroom experience to spot and resolve issues before they become potentially costly conflicts.

With three decades of experience in successfully representing management, Tim has been recognized by Chambers USA as a leading labor and employment lawyer in Massachusetts, named a Massachusetts "Super Lawyer" in the area of labor and employment for three years and recognized in the Super Lawyers Corporate Counsel Edition in the area of labor and employment. Tim has also been recognized in the 25th Edition of *The Best Lawyers in America*® for his achievements in Employment Law and Employment Litigation.

Before Bowditch

Tim came to Bowditch & Dewey from Edwards Wildman (now Locke Lord), where he was a Partner and Co-Chair of that firm's labor and employment group for nearly 20 years.

Besides work

When not in the office, Tim can be found being trained by his Belgium Shepherd, hiking Vermont's Long Trail, riding his bike and rowing his 17-foot wooden Swampscott dory off of Nova Scotia's South Shore (when it is not on the slip for repairs).

EXPERIENCE

Complete defense verdict against a retaliation claim

A national telecomm came to Tim to defend a claim by a former manager before the U.S. District Court for the District of Massachusetts with potential damages in excess of \$2 million. The plaintiff alleged Tim's client retaliated against the manager for accusing the company of race discrimination. The race discrimination claims were dismissed at summary judgment and, after a one-week trial and four hours of deliberation, the jury returned a complete defense verdict. The case was appealed to the U.S. Court of Appeals for the First Circuit, where Tim prevailed again.

Winning with a "skillful defense" at the trial and appeals level

After winning at the trial level before a jury, Tim and his client – a national lighting manufacturer – faced an appeal to the First Circuit involving a \$2.5 million claim for sexual harassment. The trial court decision was upheld on appeal where, in a published opinion, the court commented on the firm's "skillful defense."

Breach of Contract case knocked out on a Motion to Dismiss

Tim was called upon to represent one of his many healthcare clients when a former employee sued, claiming that her termination violated her contractual right to progressive discipline under the employee handbook. In a 22-page decision, the court completely agreed with Tim's motion that the handbook did not constitute a contract with the plaintiff and, even if it did, the healthcare provider did not breach its terms, as the handbook did not guarantee that progressive discipline would be followed in every case.

Court stops adversary dead in its tracks in attempting to enforce non-compete

In a contentious non-compete matter, our client's former employer tried to get him to sign a separation agreement in exchange for his 35 percent share of the company. When that low-ball effort failed, the employer brought suit, seeking a preliminary injunction to prevent our client from leasing rail cars, claiming he was in breach of his non-compete obligations. Had the injunction been granted, our client would essentially have been denied his livelihood along with his ability to work in the only industry he has ever known. Following extensive briefing and an extended oral argument, the court denied the employer's motion completely, finding it had established neither a likelihood of success on the merits nor a showing of irreparable harm.

OTHER EXPERIENCE

- Complete summary judgment for a Fortune 100 client against a former employee claiming sexual harassment and sex discrimination
- Obtained complete summary judgment in an arbitration before JAMS for a medical group against a former physician/employee claiming breach of employment agreement and breach of fiduciary duty
- Defended a myriad of sexual harassment and discrimination claims brought against Fortune 500 companies, including claims that have gone to full trial and hearing before various state agencies
- Obtained complete summary judgment in a whistleblower claim against a national chemical company
- Dismissed RICO and common law related claims against a corporation and its officers by a former union steward claiming constructive discharge due to union activities. The First Circuit affirmed the judgment, marking the first time

the First Circuit had addressed the issue of NLRB preemption.

- Obtained a complete defense award, including damages in favor of the employer, plus all attorneys' fees, in a two week arbitration, in which a former executive sought \$5 million for breach of contract and fraud under a separation agreement

AFFILIATIONS

- Member, Massachusetts Bar Association
- Member, Boston Bar Association
- Member, Employment Law Alliance

ARTICLES & TALKS

ARTICLES

- [“Paid Family and Medical Leave Comes to Massachusetts,”](#) Bowditch & Dewey, December 3, 2018
- [“C-suite Employment Contract Clauses in the Wake of Weinstein ,”](#) Massachusetts Lawyers Weekly, March 5, 2018
- [“Non-Compete Reform in Massachusetts: 2018 Could be the Year ,”](#) Bowditch & Dewey, February 2018
- [“C-Suite Employment Contract Clauses Companies and their Boards Must Consider in the Wake of Weinstein ,”](#) Bowditch & Dewey, November 17, 2017
- [“Combating Opioid Abuse in the Workplace: A Proactive Approach For Employers ,”](#) Bowditch & Dewey, October 12, 2017
- [“Major Companies Call for Second Circuit to Declare Discrimination Based on Sexual Orientation Unlawful Under Title VII,”](#) Bowditch & Dewey, July 24, 2017
- [“Medical Marijuana in the Workplace: An Employee’s Balm; an Employer’s Bane ,”](#) Bowditch & Dewey, July 18, 2017
- [“Marijuana at Work: Convention Takes a Hit ,”](#) Boston Business Journal, December 25, 2015
- [“Outlawing Impolite Behavior at Work: An Ominous Trend ,”](#) New England In-House, Massachusetts Lawyers Weekly, Daily Record, and Rhode Island Lawyers Weekly, August 2015
- [“As a Law Grows Older, We Feel Younger: Is it Time the Age Discrimination Law Got a Makeover? ,”](#) Corporate Counsel, July 22, 2015
- [“ViewPoint: Trouble brewing for our other national pastime ,”](#) Boston Business Journal, November 28, 2014
- [“How Employers Can Minimize Their Risks When Executives Jump Ship,”](#) Bowditch & Dewey, July 30, 2014

TALKS

- [“How to Promote a Recovery Friendly Workplace ,”](#) MetroWest Chamber of Commerce, Natick, Massachusetts, October 30, 2018
- [“Sexual Harassment in the Workplace: What it Means for Nonprofits in the Wake of Weinstein,”](#) Greater Worcester Community Foundation, Bowditch & Dewey, Worcester, MA, September 27, 2018
- [“Massachusetts Non-Competes: Alive, Dead, or on Life Support? ,”](#) Bowditch & Dewey, Framingham, Massachusetts (April 3, 2018) & Worcester, Massachusetts (April 6, 2018)

- “[The Workplace After the Weinstein Scandal: What it Means for Employers](#) ,” Bowditch & Dewey, Worcester, Massachusetts, November 14, 2017
- “[Social Media in the Workplace – Keeping Up with Evolving Issues](#) ,” Bowditch & Dewey, Worcester/Waltham/Springfield, Massachusetts, September 2017
- “[8th Annual Federal and State Employment Law Update](#) ,” Bowditch & Dewey, Worcester/Newton/South Hadley, Massachusetts, January/February 2017
- “[7th Annual Federal and State Employment Law Update](#) ,” Bowditch & Dewey, Worcester/Newton/South Hadley, Massachusetts, January/February 2016
- “How to Conduct an Effective Internal Investigation, and Common Mistakes to Avoid Along the Way,” Bowditch & Dewey Breakfast @ Bowditch series, Worcester/Boston/South Hadley, Massachusetts, April/May 2015
- “Massachusetts Non-Competition Agreements: The Good, The Bad, and The Ugly,” Bowditch & Dewey Breakfast @ Bowditch series, Worcester/Boston, Massachusetts, October 2014

BAR ADMISSIONS

- Massachusetts
- Maine
- Illinois
- U.S. Court of Appeals, First Circuit
- U.S. Supreme Court

EDUCATION

- J.D., *cum laude*, Boston College Law School
- B.A., *summa cum laude*, Boston College; Phi Beta Kappa