

PARTNER

# Timothy P. Van Dyck

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## OVERVIEW

Tim Van Dyck, Practice Area Leader, Employment & Litigation, 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 New England.

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, defamation claims, whistle blower claims, and other contentious employment disputes. He also regularly prosecutes and defends non-compete, non-solicit and trade secret matters. Most recently, Tim and his team tried a whistle blower and defamation claim brought by nine nurses against a hospital and its CEO seeking in excess of \$50M in damages. Tim obtained a complete defense verdict on behalf of the clients following a two week jury trial in Suffolk Superior Court.

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, physician owned, healthcare system in the U.S.

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.

## Besides work

When not in the office, Tim can be found 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 telecom 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 \$2M. The plaintiff alleged the firm's telecom 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 the client – a national lighting manufacturer – faced an appeal to the First Circuit involving a \$2.5M 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 the firm’s 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 \$5M for breach of contract and fraud under a separation agreement

## AFFILIATIONS

- Member, Lighting the Spark Event Host Committee, Literations
- Member, Massachusetts Bar Association
- Member, Boston Bar Association
- Member, Employment Law Alliance

## HONORS

- *Best Lawyers in America*, selected by his peers for inclusion in the fields of Employment Law – Management since 2017 and Litigation – Labor and Employment since 2018
- *Chambers USA, America's Leading Lawyers for Business*, ranked for many years as one of the top labor and employment lawyers in Massachusetts
- Massachusetts *Super Lawyers* list for Labor & Employment

## ARTICLES & TALKS

### ARTICLES

- “EEOC Releases Final Guidance on Workplace Harassment,” Bowditch, 2024
- “EEOC Releases Proposed Guidance on Workplace Harassment,” Bowditch, 2023
- “What Does the End of the COVID-19 Public Health Emergency Mean for Your Workplace?,” Bowditch, 2023
- “What NLRB’s Ruling on Non-Disparagement Clauses Means for Financial Services Firms,” *Banker & Tradesman*, 2023
- *Concrete Steps Employers Should Consider When Drafting Severance Agreements in the Wake of McLaren Macomb*,” Bowditch, 2023
- “Employers Beware – Your Confidentiality Provisions May Come Back to Bite You,” Bowditch, 2023
- “Massachusetts Employers Are Strictly Liable for Treble Damages for Late Wage Payments,” Bowditch, 2022
- “The City of Boston, Rhode Island, and Connecticut Issue New Vaccine Policies Impacting Businesses & Employers,” Bowditch, 2021
- “Use of well-crafted contractual arbitration clauses,” *Massachusetts Lawyers Weekly*, 2020
- “Paid Family and Medical Leave Comes to Massachusetts,” Bowditch, 2018
- “C-suite Employment Contract Clauses in the Wake of Weinstein,” *Massachusetts Lawyers Weekly*, 2018
- “Non-Compete Reform in Massachusetts: 2018 Could be the Year,” Bowditch, 2018
- “Marijuana at Work: Convention Takes a Hit,” *Boston Business Journal*, 2015
- “Outlawing Impolite Behavior at Work: An Ominous Trend,” *New England In-House*, *Massachusetts Lawyers Weekly*, *Daily Record*, and *Rhode Island Lawyers Weekly*, 2015
- “As a Law Grows Older, We Feel Younger: Is it Time the Age Discrimination Law Got a Makeover?,” *Corporate Counsel*, 2015
- “ViewPoint: Trouble brewing for our other national pastime,” *Boston Business Journal*, 2014

### TALKS

- *Investigations – the Good, the Bad and the Ugly*, Bowditch Employment Law Update, 2023
- *A Crisis in Plain Sight: Tools for Mitigating the Opioid Affect in the Workplace*, Association for Corporate Counsel Northeast, 2019 (Moderator)
- *How to Promote a Recovery Friendly Workplace*, MetroWest Chamber of Commerce, 2018
- *Sexual Harassment in the Workplace: What it Means for Nonprofits in the Wake of Weinstein*, Greater Worcester Community Foundation & Bowditch, 2018

- [Massachusetts Non-Competes: Alive, Dead, or on Life Support?](#), Bowditch, 2018
- [The Workplace After the Weinstein Scandal: What it Means for Employers](#), Bowditch, 2017
- [Social Media in the Workplace – Keeping Up with Evolving Issues](#), Bowditch, 2017
- [8th Annual Federal and State Employment Law Update](#), Bowditch, 2017

## MEDIA MENTIONS

- [“NLRB prompts review of severance agreements”](#) (*Massachusetts Lawyers Weekly*)
- [“Feds issue game-changing ruling on nondisclosure agreements. Experts say employers should take these steps.”](#) (*The Business Journals Playbook Newsletter*)

## BAR ADMISSIONS

- Massachusetts
- 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