

Donald S. Smith

Of Counsel

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Biography

Donald Smith limits his practice to representing employers, executives, and physicians in labor and employment matters. He defends employers in cases pending before state and federal courts, the National Labor Relations Board, Equal Employment Opportunity Commission, Indiana Civil Rights Commission, U.S. Department of Labor, Indiana Department of Workforce Development, and Indiana Worker's Compensation Board.

Don advises employers concerning various employment issues such as employee handbooks, employment agreements, severance agreements, covenants not to compete, restrictive covenants, wrongful termination, collective bargaining, labor arbitration, unions, discrimination, harassment, wage and hour matters, unemployment compensation, and worker's compensation.

Representative Matters

Since Don started practicing law more than 40 years ago, he has limited his practice to labor and employment law. Don has extensive experience representing clients in the following industries: Credit unions, construction, insurance, manufacturing, retail, transportation, health care, printing, temporary labor, and restaurant.

- Prosecuted and defended numerous requests for temporary and permanent injunctions in non-compete cases on behalf of employers.
- Defended an insurance company in employment discrimination case that set the standard for determining whether an insurance agent is an independent contractor: *Knight v. United Farm Bureau Mut. Ins. Co., Inc.*, 950 F.2d 377 (7th Cir. 1991).
- Defended county employer at trial and on appeal against wrongful discharge claim: *Moulton v. Vigo Co.*, 150 F.3d 801 (7th Cir. 1998).
- Represented employer in a religious discrimination case, in which employee unsuccessfully sought court intervention permitting employee to use the phrase "Have a blessed day" in the workplace: *Anderson v. U.S.F. Logistics*, 274 F.3d 470 (7th Cir. 2001).

Education

Indiana University Robert H. McKinney School of Law, JD, *cum laude* 1981

DePauw University, BA communications, *cum laude* 1978

Bar & Court Admissions

- Indiana, 1981
- U.S. District Court for the Northern District of Indiana 1981
- U.S. District Court for the Southern District of Indiana 1981
- U.S. Court of Appeals for the Seventh Circuit 1983
- U.S. Court of Appeals for the Sixth Circuit 1983

Representative Matters *continued*

- Represented employer in a wage case, in which the Indiana Court of Appeals reversed the trial court's award of vacation pay to the employee, and enforced the employer's written policy that vacation pay was not earned until the employee's anniversary date: *Damon Corp. v. Estes*, 750 N.E.2d 891 (Ind. Ct. App. 2001).
- Represented employer hospital in a worker's compensation case, in which the Indiana Supreme Court ruled that the Worker's Compensation Board lacked the statutory authority to award interest on worker's compensation benefits, including overdue medical bills: *Christopher R. Brown, DDS, Inc. v. Decatur Co. Memorial Hospital, Inc.*, 892 N.E.2d 642 (Ind. 2008).
- Defended employer in a class action in a wage and hour case: *Artis v. First Revenue Assurance, LLC*, (1:09-cv-01555, S. D. Ind. 2009).

Awards & Recognition

Martindale-Hubbell: AV Preeminent Rated: 2013 – present

Indianapolis Monthly Top Lawyers

- Labor and Employment Law, 2026
- Worker's Compensation Law, 2026

The Best Lawyers in America®

- Employment Law — Management: 2022 – present
- Labor Law — Management: 2027
- Litigation — Labor and Employment: 2022 – present
- Worker's Compensation Law — Employers: 2022 – present

The Best Lawyers in America® "Lawyer of the Year"

Indianapolis: 2023 & 2025

- Worker's Compensation Law — Employers

Indiana Super Lawyers®, 2004 – 2006 and 2009 – present

- Employment And Labor

First Baptist Athletics

- Hall of Fame Inductee, 2006

Practice Areas

- Labor & Employment Law
- Labor Law
- Employment Law
- Non-competition Agreements
- Worker's Compensation Defense

Associations

- Indiana State Bar Association
- Indianapolis Bar Association
- Defense Trial Counsel of Indiana (DTCI)
- Defense Research Institute (DRI)

Community Activity

- Broad Ripple Haverford Little League
 - Manager, 2025 – 2026
- International School of Indiana
 - Board of Directors, 2016 – 2019
- IndyBar Legal Lines
 - Volunteer Attorney
- North Central Football Fanatics
 - President, 2002 – 2004
- North Central High School
 - Public Address Announcer, Football, 2002 – 2011
- Washington Township Baseball, Inc.
 - President, 2010 – 2011
 - Vice President, 2009 – 2010
 - Secretary, 1999 – 2005
- Westminster Legal Ministry
 - Chairman, 1988 – 2011