

## David B. Jordan

Shareholder

Co-Chair, Hospitality Industry Group

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## Focus Areas

Wage and Hour

Energy

Healthcare

Hospitality

Class Action

Occupational Safety and Health

## Overview

David B. Jordan is a preeminent class and complex litigation attorney, focused primarily on wage and hour, independent contractor and tip-related issues. His practice spans the continent, litigating complex matters from Alaska to Texas to Puerto Rico. He also litigates across all venues, including federal district and appellate courts, the United States Supreme Court and in bet-the-company private arbitrations.

Examples of David's practice include:

- Representing multiple national trade associations as amicus before the United States Supreme Court on groundbreaking wage/hour day rate challenge
- Prevailed in trial representing a national oilfield services company in a class action trial, prevailing on a nuanced Motor Carrier Act overtime exemption
- Represented national trade associations on amicus vacating a Department of Labor rule, and setting aside onerous tip credit regulations
- Successfully rebuffed Department of Labor challenges in multiple matters involving contractor classification, uniform expense reimbursement, tip credit application and janitorial services

- Defended nearly two hundred energy and hospitality client class actions, resulting in millions of dollars of exposure mitigation

David's clients include national, regional and local clients. Given his 10 years in business before practicing law, David is able to provide pragmatic and efficient advice and defense, all tailored to the particular needs and size of the client. David has also been Board Certified in Labor & Employment Law by the Texas Board of Legal Specialization since 2007. His fuller areas of concentration include:

- Complex class and collective action litigation
- State and federal overtime class litigation
- State and federal independent contractor class litigation
- Appellate litigation, including at the U.S. Supreme Court
- Wage and hour compliance, including tip credit, tip sharing and service charge issues
- Discrimination and retaliation
- Workplace fatality investigations and litigation
- Employment policies
- Strategic business planning
- Positive employee relations
- I-9 compliance

David has advised and defended hundreds of clients across the country in multiple industries, including:

- Upstream and midstream oil and gas production
- Renewable energy
- Restaurants
- Gaming
- Hotel and lodging
- Hospitality
- Retail
- Acute and behavioral healthcare
- Staffing
- Chemical and material manufacturing
- Transportation
- Higher education

Prior to practicing law, David spent approximately 10 years in the hospitality industry, building and managing a variety of restaurant concepts. From 2000 to 2001, David served as a clerk for the Hon. Sven Erik Holmes of the United States District Court, Northern District of Oklahoma. David is an active speaker on labor and employment law issues, appearing before trade organizations, human resource professionals and corporate legal departments. David also frequently represents trade associations and clients as amicus counsel before federal appellate courts and the U.S. Supreme Court. David also devotes significant attention to pro bono matters, including non-profit representation.

## Professional and Community Affiliations

- Former Chair, Labor & Employment Law Section, Houston Bar Association, 2008-2013
- Former Council Member, Labor & Employment Law Section, Houston Bar Association, 2008-2013
- Member, Labor and Employment Law Section, State Bar of Texas
- Board Member, Greater Houston Restaurant Association
- Co-Founder, USA Swimming Club for intercity youth
- Co-Founder, a local foundation aimed at rebuilding struggling schools, Learn Local

## Recognition

- Named, The Best Lawyers in America®, 2013-2025
- Named, Rising Star, Texas, *Law & Politics*, 2006-2011
- Named, Super Lawyer, *Super Lawyers*, 2013-2018
- Named, Rising Star, *Super Lawyers*, 2006-2011

## Education

J.D., The University of Oklahoma College of Law, 2000

B.A., Oklahoma State University, 1990

## Bar Admissions

Texas

## Courts

U.S. District Court, Eastern District of Texas

U.S. District Court, Western District of Texas

U.S. District Court, Northern District of Texas

U.S. District Court, Southern District of Texas

U.S. District Court, District of Colorado

U.S. Court of Appeals, 3rd Circuit

U.S. Court of Appeals, 4th Circuit

U.S. Court of Appeals, 5th Circuit

U.S. Supreme Court

## **Publications & Press**

### **Legal Battles Cloud Tipped Wage Limits After Fifth Cir. Ruling**

*Bloomberg Law*

August 30, 2024

### **Fifth Circuit Vacates DOL's 80/20/30 Rule for Tipped Employees**

*Littler ASAP*

August 23, 2024

### **Sixth Circuit Establishes Stricter Standard for Granting Notice of FLSA Collective Action**

*Littler ASAP*

May 22, 2023

### **Supreme Court Holds Day Rate Pay Cannot Satisfy the Salary Basis Test**

*Littler ASAP*

February 23, 2023

### **Top Wage & Hour Regulation Developments To Watch In 2023**

*Law360 Employment Authority*

January 2, 2023

### **Quiet Quitting, Mouse-Jigglers, Career Polygamy?? Should Employers Be Worried?**

*Littler Insight*

September 22, 2022

### **Labor of Law: Pandemic Sparks Increase in Restaurant-Tip Litigation**

*Law.com*

June 2, 2022

### **Fifth Circuit Reverses Denial of Preliminary Injunction in Vaccine Mandate Case**

*Littler ASAP*

February 18, 2022

### **Texas Governor Abbott Bars Employers and Individuals from Compelling COVID-19 Vaccines**

*Littler ASAP*

October 12, 2021

### **Best Lawyers in America® 2022 Edition Honors More Than 240 Littler Lawyers**

*Littler Press Release*

August 19, 2021

**DOL's Proposed Tip Rule Leaves Gray Areas, Attorneys Say**

*Law360 Employment Authority*

June 21, 2021

**DOL Proposes to Delay and Revise Portions of Final Rule on Handling Tips and Eliminating the 80/20 Rule**

*Littler Insight*

March 25, 2021

**Department of Labor Issues Two Tip-Related Opinion Letters in Final Days of Outgoing Administration**

*Littler ASAP*

January 19, 2021

**Fifth Circuit Announces More Rigorous Standard for Certification of Collective Actions**

*Littler ASAP*

January 13, 2021

**Best Lawyers in America© 2021 Edition Honors More Than 250 Littler Lawyers**

*Littler Press Release*

August 20, 2020

**DOL Issues Proposed Regulations on Handling Tips and the "80/20 Rule"**

*Littler ASAP*

October 8, 2019

**Fifth Circuit Confirms that a Day Rate Can Meet the Salary Requirements under the FLSA's White Collar Overtime Exemptions**

*Littler ASAP*

August 22, 2019

**Best Lawyers in America© 2020 Edition Honors More Than 200 Littler Lawyers; 14 Named Lawyer of the Year**

*Littler Press Release*

August 15, 2019

**High Court Salary Ruling Seen Having Broader Impact**

*Business Insurance*

June 18, 2019

**Offshore Drilling Companies Can Rest Easy: Supreme Court Holds California Wage and Hour Law Inapplicable to Certain Rig Workers**

*Littler ASAP*

June 11, 2019

**Three Proposed Regulations That Should Be on the Hospitality Industry's Radar**

*Littler ASAP*

April 25, 2019

**Littler Lightbulb: Highlighting Five Trends in Hospitality**

*Littler Insight*

April 2, 2019

**Fifth Circuit Finds Directional Drillers Are Independent Contractors**

*Littler ASAP*

March 12, 2019

**Review Tip-Credit Practices in Arizona, Hawaii and Idaho**

*SHRM Online*

September 25, 2018

**Full 9th Circuit Approves "20% Rule" for Tipped Employees**

*Littler ASAP*

September 19, 2018

**Best Lawyers in America© 2019 Edition Honors More Than 200 Littler Lawyers**

*Littler Press Release*

August 15, 2018

**Does Tipping Contribute to Sexual Harassment in Restaurants?**

*Restaurant Insider*

July 16, 2018

**States Consider Eliminating Tipped Minimum Wage**

*Restaurant Insider*

June 20, 2018

**Littler Names Co-Chairs of Hospitality Industry Group**

*Littler Press Release*

May 31, 2018

**Straightening Out the Labor Law Inclusion of Light-Duty Truck Drivers**

*MH&L News*

May 25, 2018

**Fifth Circuit Weighs in on Motor Carrier Act Overtime Exemption and Small Vehicle Exception**

*Littler ASAP*

May 17, 2018

**New Tip-Sharing Rules for Tipped Employees**

*TLNT*

April 20, 2018

**DOL Clarifies Amendment to the FLSA's Tip Pool Rules**

*Littler ASAP*

April 12, 2018

**DOL Issues Proposed Rule to Rescind 2011 Regulations that Impose Tip-Sharing Restrictions on Employers that Pay the Full Federal Minimum Wage to Employees**

*Littler ASAP*

December 5, 2017

**Best Lawyers in America© 2018 Edition Honors More Than 200 Littler Lawyers**

*Littler Press Release*

August 17, 2017

**The Best Lawyers in America© Honors More Than 180 Littler Lawyers in Its 2017 Edition**

*Littler Press Release*

August 16, 2016

**Fifth Circuit Declines to Broaden Permitted Deduction of Credit Card Fees from Tips**

*Littler ASAP*

June 30, 2016

**What are the Most Significant Changes the DOL Made to the FLSA's White Collar Overtime Regulations?**

*Littler Insight*

May 31, 2016

**What To Know About The DOL's New Overtime Regulations**

*Law360*

May 26, 2016

**Littler Attorneys Recognized in the Best Lawyers in America© 2016 Edition**

*Littler Press Release*

August 18, 2015

**Littler Attorneys Included in the Best Lawyers in America© 2015 Edition**

*Littler Press Release*

August 18, 2014

**Houston City Council Passes City's First Anti-Discrimination in Private Employment Ordinance**

*Littler Insight*

May 29, 2014

**Littler Attorneys Named in Best Lawyers in America® 2014 Edition**

*Littler Press Release*

August 15, 2013

**Wage and Hour Law Pitfalls in the Construction Industry**

*The Associated General Contractors of America, Houston Chapter*

March 2013

**Best Lawyers in America® Names 164 Littler Attorneys to 2013 Edition**

*Littler Press Release*

September 7, 2012

**Fifth Circuit Upholds Private Settlement of FLSA Claims Where Bona Fide Dispute of Liability Exists**

*Littler ASAP*

August 17, 2012

**Navigating the Landmines of Unique Payroll Deductions**

*Texas Association of Business*

February 2011

**Fifth Circuit Employment Discrimination Update**

*Fifth Circuit Reporter, Bar Association of the Fifth Federal Circuit*

2002 - 2010

**OSHA Warns of Compliance Directive Associated with H1N1 Safety Measures in Healthcare Facilities**

*Washington Healthcare Update*

October 16, 2009

**'Say on Pay' Reforms Continue to Gain Congressional, Union and Industry Support**

*Firm Newsletter*

October 16, 2009



**United States Supreme Court Agrees to Review Constitutionality of Sarbanes-Oxley Act and the PCAOB**

*Firm Newsletter*

May 29, 2009

**Staying in Compliance with the 2008 Amendments to the Americans with Disabilities Act**

*Associated General Contractors-Houston Chapter Cornerstone*

Oct. 2008

**Post-Merger Disclosure Claims Rejected in *In re Transkaryotic Therapies, Inc. Litigation***

*Firm Newsletter*

July 1, 2008

**United States Supreme Court Issues Significant Labor and Employment Decisions**

*Firm Publication*

June 20, 2008

**ICE Turns Focus on Houston Restaurant Chain**

*A La Carte Foodservice Consulting Group Newsletter*

June 17, 2008

**U.S. Supreme Court Denies Challenge to EEOC's Rule on Retiree Health Benefits and Medicare Coordination**

*Fulbright & Jaworski L.L.P. Client Briefing*

March 27, 2008

**Texas Supreme Court Upholds Out of State Forum Selection Provisions in Non-Competition Agreements**

*Fulbright & Jaworski L.L.P. Client Briefing*

July 3, 2007

**Square Pegs and Round Holes: Why Native American Economic and Cultural Policies and United States Intellectual Property Law Don't Fit**

*Am. Indian L. Rev. 93*

2000-2001

**Speaking Engagements**

**2024 Puerto Rico Regional Employer Conference**

San Juan, PR

November 15, 2024

**Overtime - What Employers Need to Know Today**

November 7, 2024

**2024 Houston Regional Employer Conference**

Houston, TX

September 26, 2024

**Post 80/20/30 Landscape? What is Next for the Hospitality Industry?**

September 12, 2024

**Retail and Hospitality Roundtable**

Littler Executive Employer Conference, Phoenix, AZ

May 8, 2024

**Love Your Lawyer**

Houston, TX

February 13, 2024

**2023 Houston Regional Employer Conference**

Houston, TX

October 18, 2023

**A Texas-Size Legislative, Regulatory and Judicial Round-Up**

September 26, 2023

**Understanding the DOL's Proposed Update to Overtime Regulations**

September 13, 2023

**Hospitality & Retail Roundtable**

Littler Executive Employer Conference, Phoenix, AZ

May 10, 2023

**2023 Puerto Rico Employer Conference**

San Juan, PR

April 27, 2023

**Overtime - What Employers Need to Know Today**

April 13, 2023

**2023 Love Your Lawyer**

Houston, TX

February 14, 2023

**2022 Houston Regional Employer Conference**

Houston, TX  
October 6, 2022

**Hospitality Industry Roundtable**

Littler Executive Employer Conference  
May 4, 2022

**Emerging COVID-19 Vaccine Mandate Issues in Texas**

November 11, 2021

**2021 Houston Employer Conference**

Houston, TX  
October 26, 2021

**The CDC Just Said What?! Chasing Best Workplace Practices on Masking, Vaccines and More**

June 29, 2021

**Love Your Lawyer: Littler Lawyers Answer Your Most Burning Labor and Employment Questions**

Houston, TX  
February 10, 2021

**Wage and Hour Considerations for Reopening Your Business**

May 21, 2020

**Love Your Lawyer: Littler Lawyers Answer Your Most Burning Labor and Employment Questions**

Houston, TX  
February 11, 2020

**Navigating the DOL's Proposed Regulations on Tip Pools and Dual Jobs in the Hospitality Industry**

November 15, 2019

**Nashville Regional Roundtable**

Cornell Center for Innovative Hospitality Labor and Employment Relations  
October 4, 2019

**Tips on Tips: Keeping Up with Changes on Handling the Tip Credit, the 80/20 Rule and Service Charges**

September 12, 2019

**Timely Talk About Wage and Hour Law: Day Rate Issues Impacting Employers**

August 28, 2018

**Timely Talk About Wage and Hour Law: The FLSA's 2018 Amendment on Tip Pooling and Tip Ownership and the Related DOL Field Bulletin**

April 26, 2018

**FLSA Litigation in the Trump ERA**

Houston Bar Association, Houston, TX

December 2017

**After Trump's First Nine Months, What Should Employers Expect Next?**

Texas Total Rewards Conference, Fort Worth, TX

September 15, 2017

**2017 Houston Employer Conference**

Houston, TX

August 10, 2017

**Employment Law Outlook Under Trump Administration**

Chain Restaurant Total Rewards Association 2017 Annual Conference, San Diego, CA

July 25, 2017

**Timely Talk about Wage and Hour Law: Tipping in the Hospitality and Restaurant Industries**

July 19, 2017

**A Primer on FLSA Litigation for the HR Professional**

HR Houston, Houston, TX

May 10, 2017

**Managing and Improving Wage/Hour and Contingent Workforce Practices in the Energy Industry**

Houston, TX

March 7, 2017

**2016 Houston Employer Conference**

Houston, TX

August 11, 2016

**Significant Changes in Department and Labor Rules Affecting the Restaurant Industry**

OZZA, Vail, CO

July 25, 2016

**DOL Issues Final Overtime Rule - May 23**

May 23, 2016

**DOL Issues Final Overtime Rule - May 20**

May 20, 2016

**DOL Issues Final Overtime Rule - May 19**

May 19, 2016

**Preparing for Change; Complying With DOL's Final Overtime Regulations**

HR Houston, Houston, TX

May 11, 2016

**Wage & Hour Issues in the Oil Patch**

December 2, 2014

**The 2014 Houston Employer Conference**

Houston, TX

August 14, 2014

**Top Ten Common Wage and Hour Mistakes**

Littler Mendelson, Houston, TX

August 22, 2013

**Complying with Obamacare**

Client Presentation, Houston, TX

June 18, 2013

**Wage and Hour Compliance**

San Antonio Human Resource Management Association, Inc., San Antonio, TX

May 10, 2013

**Top Ten Wage and Hour Law Pitfalls in the Construction Industry**

Associated General Contractors of America, Inc., Houston Chapter

February 27, 2013

**Labor Law Issues in the Restaurant Industry**

Greater Houston Restaurant Association

November 11, 2012

**Wage and Hour Update: Critical Developments in Laws and Regulations**

Littler Mendelson, Houston, TX

August 2, 2012

**The 2012 Houston Employer Conference**

Houston, TX  
August 2, 2012

**Employment Law Update**

Chain Restaurant Compensation Association  
July 10, 2012

**2012 Littler Healthcare Summit: Critical Employment Law Issues Facing Healthcare Employers Today**

Houston, TX  
June 14, 2012

**The 2011 Houston Employer Conference**

Houston, TX  
August 11, 2011

**Current Employment Law Trends in the Restaurant Industry**

Chain Restaurant Compensation Association  
July 26, 2011

**Homeland Security's Workplace Blitz: I-9 Audits, Silent Raids and Illegal Workers**

Houston, TX  
June 28, 2011

**Understanding and Litigating the FLSA's Tip Credit and Tip Pooling Rules**

Houston Bar Association  
May 14, 2011

**Avoiding Wage Hour Litigation**

HR Houston  
May 3, 2011

**Employment Law Basics in the Restaurant Industry**

University of Houston Small Business Series  
November 3, 2010

**Retaliation: How Do you Stop It, What Does it Mean and Why Are Claims Still Growing**

Littler Mendelson, Houston, TX  
August 12, 2010

**Current Employment Law Trends in the Restaurant Industry**

Chain Restaurant Compensation Association

July 27, 2010

**Wage and Hour Trends**

American Petroleum Labor Lawyers Association

July 17, 2010

**Wage and Hour Class Actions in the Healthcare Industry**

Houston Society for Healthcare Human Resource Administration

June 16, 2010

**Are You Busting Your Tip Pool?**

Greater Houston Restaurant Association

May 18, 2010

**Changes at the Occupational Safety and Health Administration**

Associated General Contractors of America, Houston Chapter

March 29, 2010

**H1N1: Regulatory, Compliance, Risk and Human Resource Issues**

National Web Seminar

November 19, 2009

**Catastrophic Litigation - Are you Prepared? Responding to Government and Regulatory Inquiries**

National Web Seminar

November 10, 2009

**H1N1 Legal and Human Resource Issues: A Focus for Nursing Leaders**

VHA Web Seminar

September 2, 2009

**Employment Legislation Update**

Client Breakfast Briefing - Fulbright & Jaworski L.L.P.

June 16, 2009

**In House Counsel Checklist: Employment Issues in Responding to a Health Crisis**

Fulbright Forum

June 2, 2009

**Reductions in Force: Factors to Consider When Economic Times Force a Layoff**

Lorman Education Services

February 24, 2009

**Staying in Compliance: Recent Legislative, Judicial and Regulatory Developments**

CFO Conference - Texas Society of Certified Public Accountants

Oct. 21, 2008

**How-to in Completing and Maintaining I-9s, and Conducting Self-Audits**

Associated General Contractors of America, Houston Chapter

Aug. 22, 2008

**Staying Compliant with Immigration-Related Employment Eligibility Laws**

Greater Houston Restaurant Association

May 21, 2008

**Employment Practices-Statutory and Regulatory Update**

Associated General Contractors of America, Houston Chapter

August 21, 2007

**Your Employee is on FMLA Leave: Figuring Out How to Handle Benefit and Other Policy Issues**

Counsel on Education in Management

July 27, 2007

**Terminations: Practical and Legal Considerations**

Associated General Contractors of America, Houston Chapter

February 20, 2007

**Managing Leave Law**

Associated General Contractors of America, Houston Chapter

December 8, 2006

**Reducing Liability Risks for Failing to Effectively Train Managers & Supervisors on Workplace Policies & Procedures**

Counsel on Education in Management

September 6, 2006

**Issues in Employment-Related Record Management**

Lorman Education Services

May, 10, 2006



### **Types of Claims and their Value**

2006 Labor & Employment Institute - Houston Bar Association

April 27, 2006

### **Books & Book Chapters**

- Texas Employment Law Handbook, *Texas Association of Business*, Chapter Editor and Contributing Author, 2004-2017
- *Wage and Hour Answer Book*, Littler Mendelson, P.C., Chapter Editor