

Anthony G. Stergio

Shareholder

PRACTICE EMPHASIS:

Labor & employment litigation; drafting of employment law handbooks; policies and agreements; civil trials

EDUCATION:

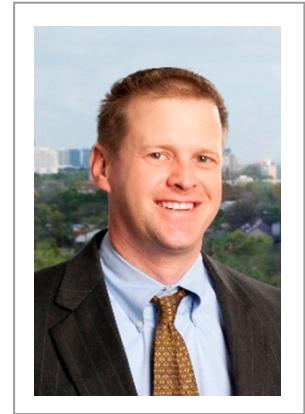
J.D., University of Kansas School of Law, 1990
Editorial Board, Kansas Law Review
B.A., *magna cum laude*, University of Connecticut, 1987

ADMITTED:

State Bar of Texas

COURT ADMISSIONS:

U.S. District Court, Northern, Southern, Eastern and
Western Districts of Texas
U.S. Court of Appeals, Fifth and Ninth Circuits



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Profile:

Board Certified in Labor and Employment Law by the Texas Board of Legal Specialization, Anthony G. "Tony" Stergio has extensive experience in the defense of State and Federal employment discrimination claims, wage and hour compliance and claims, OSHA compliance and contests, Davis-Bacon Act compliance, noncompetition agreements, Department of Labor and TWC investigations and employment policy design and review.

He speaks frequently at employment-related seminars and also counsels clients regarding developments in various areas of State and Federal employment law.

In 2017, Tony received an AV[©] Preeminent[™] Judicial Rating from Martindale Hubbell, the nation's leading legal services resource. He scored a 5 out of 5 rating, the highest rating achievable in both Legal Ability and Ethical Standards. He previously received an AV[©] Preeminent[™] Peer Review Rating from Martindale Hubbell in 2011.

Professional Recognitions:

Labor & Employment Law, Texas Board of Legal Specialization
AV[©] Preeminent[™] Judicial Rating (5.0 out of 5), *Martindale-Hubbell*
AV[©] Preeminent[™] Peer Review Rating (5.0 out of 5), *Martindale-Hubbell*
"Texas Super Lawyers," *Texas Monthly*, 2014-present
Recognized in Top 100 Verdicts in Texas in 2016

Affiliations:

State Bar of Texas
Houston Bar Association, Employment Law and Construction Law Sections Member
The Associated General Contractors of America, Safety Committee Member
The Associated General Contractors of America, Employment Practices Member
American Subcontractors Association
Economic Alliance, Houston Port Region

Representative Experience:

- Represented Chinese manufacturer of oil and gas materials in claim against American distributor for non-payment, resulting in jury trial judgment in favor of client for \$950,000.
- Negotiated the reduction of repeat and two serious OSHA violations which carried an \$80,000 fine down to one serious and one other-than-serious OSHA violation with a total \$10,000 fine
- Successfully defended company in an NLRB concerted activity investigation

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Representative Experience (Cont'd)

- Negotiated settlement in a post-employment non-compete case in which non-competition geographic restrictions were reduced by 75% and a near \$2 million buyout of the employee's interest in his former company was obtained.
- Successfully reduced OSHA penalties by over 80% in a worksite fatality case
- Avoided OSHA citations for general contractors in numerous fatality cases
- Defended numerous OSHA contests and successfully negotiated significant reductions in penalties and degree of violations
- Obtained bench trial judgment for employer in non-compete enforcement matter against former employee and employee's new employer.
- Obtained zero dollar dismissal on Federal ADA Lawsuit
- Successfully defended national origin and race discrimination cases in Federal Court
- Successfully eliminated claims in excess of \$700,000 in damages, attorney's fees and pre-judgment interest in trial of breach of contract claim
- Obtained Summary Judgment in several age, sex and race discrimination cases in both Federal and State Courts
- Obtained Summary Judgment of \$400,000 in a Benefits Fraud claim
- Defended numerous FLSA actions in Federal Court regarding employee/independent contractor issues and FLSA exemptions
- Advised clients with respect to numerous Homeland Security audits concerning I-9 issues
- Obtained Summary Judgment in a case regarding former employer's assertion that former employee had usurped confidential information and engaged in improper competition
- Successfully established fraudulent transfer of real estate in State Court jury trial
- Analyzed numerous noncompetition agreements for enforceability issues and litigation strategy
- Drafted employment policies, handbooks and agreements for numerous large companies
- Successfully blocked a temporary injunction sought by a terminated employer/shareholder who asserted that termination was a shareholder oppression

Speeches and Publications:

- "2018 Employment Law Updates," AM Law Alert, January 2018
- "Contracting with DBE Reminder & Sexual Harassment Policies Reminder," AGC Houston, November 2017
- "Are you Prepared for the Next Major Crises?" (Co-Author), AM Law Alert, November 2017
- "DOL Inspections Increase: Title VII Sessions Memo," AM Law Alert, October 2017
- "OSHA Recording, Reporting, Inspections, and Citations: How to Avoid Mistakes and Pitfalls," NACM Houston, October 2017
- "Fair Labor Standards Act," American Subcontractors Association, October 2017
- "Hot Topics in Employment," BCH Employment Law Seminar, September 2017
- "Pay for Employees During Work Closure for Inclement Weather," AM Law Alert, September 2017
- "Trump Administration Signals Change of Direction on Employer/Independent Contractor Distinction and Joint Employer Doctrine," Build Houston, August 2017
- "Silica Update, New TxDOT E-verify, EEO-1 Deadline Pushed Back," AM Law Alert, August 2017
- "Social Media for Contractors," AGC Houston, July 2017
- "Overtime Rule May Never Become Effective," AM Law Alert, July 2017
- "OSHA Loses Key Multi-Employer Case," The Leading Edge, July 2017
- "A Texas Legislative Update," Cornerstone, Summer 2017
- "Blacklisting Law Repealed," Build Houston, June 2017
- "Employment Round-Up," AM Law Alert, June 2017
- "President Trump to OSHA's *Volks Rule* – 'You're Fired'," AM Law Alert, April 2017
- OSHA Delays Enforcement of Silica Rule for 90 Days," AM Employment Law Alert, April 2017

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Speeches and Publications (Cont'd)

"Big Changes at OSHA? What is Likely in Store for the Agency Under the Trump Administration," ABC Houston, March 2017

"Individual Health Insurance Reimbursement Allowable Again if Properly Set Up," AM Law Alert, March 2017

"OSHA Under the Trump Administration," AGC Member's Edge, March 2017

"OSHA Under the Trump Administration," Build Houston, February 2017

"New I-9s, Poster Requirements and OSHA Penalties," AM Law Alert, January 2017

"Expected Employment Developments in 2017," ABC Central Texas, January 2017

"Non-DBE Contractors and Suppliers Beware: Targeting Non-DBEs in Fraud Cases," Cornerstone, Winter 2017

"OSHA Clarifies Stance on Drug Testing," AM Law Alert, November 2016

"DOL New Overtime Rule Blocked," AGC's Members Edge, November 2016

"New PTO Requirements for Government Contractors," AM Law Alert, October 2016

"New Austin Regulations on Employment Applications," (Co-Author), AM Law Alert, October 2016

"New Minimum Wage for Federal Contract Workers," AM Law Alert, September 2016

"New EEOC Corporate Wellness Regulation for 2017," AM Law Alert, August 2016

"Temporary Employees – Who Really is the Employer?" AGC's Cornerstone, Summer 2016

"The Department of Labor's New Overtime Rules," American Subcontractors Association, July 2016

"New OSHA E-Reporting/Non-Retaliation Regulations," AGC Employment Practice Committee, July 2016

"Not Taking Action on Sexual Harassment Complaints Can Cost You," AM Law Alert, July 2016

"Post Accident Drug Testing May 'Violate New OSHA Rule'," AM Law Alert, June 2016

"As OSHA Fines Set to Nearly DOUBLE, Contractors Must Focus on Prevention," ABC Build Houston, April/May 2016

"Prevailing Wage Obligations – Davis-Bacon, State Law and Contract," AM Law Alert, February 2016

"OSHA on Your Project," Austin Bar Association, Construction Law Section, January 2016

"New Open Carry Law in Texas," ABC Build Houston, December/January 2016

"HERO Defeated – Now What?" AM Law Alert, November 2015

"New Open Carry Law in Texas - A 'Sign' of the Times," AGC's Members Edge, November 2015

"New Open Carry Law in Texas - A 'Sign' of the Times," AM Law Alert, October 2015

"Travel: Determining Compensable Time for Non-Exempt Employees," ABC Build Houston, October 2015

"Eight Common Mistakes Employers Make," Construction Executive Risk Management, October 2015

Presentation to Private Client Group: Employment Law Updates for 2015-2016, September 2015

"FMLA and GINA Updates," ABC Build Houston, August/September 2015

"NLRB's New Quickie Election Rules," ABC Build Houston, June/July 2015

"Common Employer Mistakes," Presentation to CMFA, April 2015

"NLRB's New Quickie Election Rules," AM Law Alert, March 2015

"Top 10 Employer Mistakes," Greater Austin Contractors & Engineers Association, February 2015

"OSHA Compliance and Partnership," ABC Program Series, February 2015

"OSHA Updates," AM Law Alert, March 2015

"FMLA Updates Definition of Spouse to Include Same-Sex Marriage," AM Law Alert, March 2015

"Same Sex Spouse Leave in Texas? Not So Fast!" Andrews Myers Labor & Employment Law Alert, March 2015

"The EEOC Becoming Involved in Curbing Pay Law Violations (Employers with 100+ Employees)," March 2015

"Important Employment Issues Facing Contractors," American Subcontractors Association, December 2014

"New OSHA Reporting Requirements Effective January, 1, 2015", AM Monthly Law Alert, December 2014

"Drug Testing for Marijuana... Do You really Want to Know?" ABC Build Houston, December 2014

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Speeches and Publications (Cont'd)

- "The Affordable Care Act: Update for Construction Employers", Build Houston Magazine, November 2014
- "What to do in the Event of an OSHA Inspection," Association of General Contractors, September 2014
- "Same-Sex Sexual Harassment Ruling Impacting Contractors," AM Law Alert, July 2014
- "Further Amendments Banning LGBT Workplace Discrimination by Federal Contractors and the Federal Government," AM Monthly Law Alert, July 2014
- "Conflicting Rulings from the Courts Today on Health Care Law," AM Law Alert, July 2014
- "City of Houston's New Anti-Discrimination Ordinance Goes into Effect," AM Law Alert, June 2014
- "Affordable Care Act – Recent Changes and Upcoming Issues," AGC Cornerstone, Summer 2014
- "Temporary Employee Roundtable," Presentation to American Society of Safety Engineers, April 2014
- "Behavior at Work," Presentation to TAS Commercial Concrete Construction, Inc., April 2014
- "Expansion on Affirmative Action Requirements for Veterans and Disabled Persons," March 2014
- "Temporary Employees: An Agency and Host Joint Responsibility," Presentation to Greater Houston STEPS Network, February 2014
- "NLRB Posting Requirements"-AGC Members' Edge Article, February 2014
- "Best HR Practices and Common Pitfalls," American Subcontractors Association, February 2014
- "Equal Employment Issues and Pitfalls," Construction Financial Management Association, November 2013
- "OSHA Sharpens Focus on Temporary Workers," ABC Build Houston, October/November 2013
- "Ask a Lawyer (Panelist)", Houston Contractors Association, July 2013
- "Hang Up and Drive: DOL Urges Employers to Adapt Driving Policies," AGC Members Edge, May 2013
- "What the Patient Protection and Affordable Care Act Means for Your Business," AGC Cornerstone, Spring 2013
- "Readying for The Affordable Care Act, aka Obamacare," Numerous presentations, 2012-2013
- "NLRB Social Media Policies," Association of General Contractors, October 2012
- "Ask a Lawyer (Panelist)," Houston Contractors Association, October 2012
- "Understanding EEOC Criminal History Guidelines," AGC Members Edge, October 2012
- "5 Important Federal and State Employment Law Updates," ABC Build Houston, October 2012
- "Fleet Management-Importance of Cell Phone Policies," Association of Chemical Industry of Texas, September 2012
- "Understanding the Affordable Care Act and Employee Classifications," (Co-Author), Private Event, September 2012
- "Getting the Right People the First Time," Economic Alliance Houston Port Region, August 2012
- "Social Media in the Workplace; Employment Issues," Texas Association of Assessing Officers, August 2012
- "NLRA Update and EEOC Criminal Background Check Guidance," Association of General Contractors, Safety Committee Meeting, May and April 2012
- "OSHA Procedural Pitfalls," Houston Construction News, April 2012
- "OSHA Procedural Pitfalls," Trett Consulting Newsletter, 1st Quarter 2012
- "The Davis Bacon Survey: Why You Should Fill it Out and Send it In," AGC Cornerstone, August 2011
- "10 Common Employer Mistakes," ASA Subscript, July 2011
- "The NLRB's Increasingly Expansive Practices," Texas Merit Shop, July 2011
- "10 Common Employer Mistakes," Economic Alliance Port Region Newsletter, March 2011
- "FMLA Update: What You Need to Know," AM Employment Law Update, March 2011
- "Supreme Court Expands Scope of Retaliation Claims Under Title VII," AM Law Update, February 2011

Classes and Seminars:

Equal Employment Issues and Pitfalls
HR Crisis Management
Affordable Care Act/Obamacare
Wage and Hour Issues and Pitfalls
Sexual Harassment/Discrimination Training
NLRB Social Media Employment Policies
EEOC Criminal Background Check Guidance
Proper OSHA Procedures
Fundamental Issues of Texas Human Resources Law
ADA Workshop: Mastering the Challenges of the ADA Overlap
Common Employer Mistakes
FMLA Updates
NLRB Updates
Workers' Compensation Update: Successfully Using Modified Duty, Return to Work and Reasonable Accommodation Without Running Afoul of the ADA, FMLA or Workers' Compensation Law
Sexual Harassment Overview
How Alive is Employment at Will?
Reasonable Accommodations under the ADA
How to Conduct an Internal Investigation
Managing Social Media Policies & Procedures
A Practice Guide to I-9 Audits
Understanding I-9 Requirements
Employer's Best Practices
Keeping and Retaining a Skilled Workforce
State and Federal Employment Updates