

# Kimberly J. O'Donnell

## Partner



Partner

Lexington

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## Overview

Kimberly J. O'Donnell is a partner in the Firm's Employment and Labor practice group where she advises and represents clients in matters involving a broad range of employment issues. She focuses her practice in employment litigation, where she represents employers in litigation before state and federal courts, the Equal Employment Opportunity Commission, the Kentucky Commission on Human Rights and the Kentucky Division of Unemployment Insurance involving claims of employment discrimination, retaliation, retaliatory discharge, harassment, state and federal wage and hour laws, and violations of the Family and Medical Leave Act. Kim also advises employers on various employment issues, including employee handbooks, employee agreements, non-competition and confidentiality agreements, personnel policies and separation agreements.

Prior to joining the Firm, Kim was a Civil Rights and Employment Litigation Lawyer with Kinkead & Stilz, PLLC in Lexington, where her practice included representing local public entities and local governments with respect to statutory and constitutional civil rights issues, including sovereign immunity, qualified immunity, failure to treat a serious medical need, excessive force, wrongful discharge and employment discrimination.

Kim earned her J.D. from the University of Kentucky College of Law and her undergraduate degrees from the University of Kentucky. She is also a volunteer mediator for the Small Claims Division of the Fayette District Court.

## Experience

### Employment Litigation

- *Ebbs v. Community Medical Associates, Inc.* (d/b/a Norton Healthcare), 14-CI-00180, Oldham Circuit Court, 2018: Defended client at trial against plaintiff's claims of race discrimination, age discrimination and breach of contract. Kim argued the Motion for Directed Verdict, which was granted by the trial court on both the race and age discrimination claims. The jury returned a defense verdict in favor of client on the breach of contract claims. The jury also reached a verdict in favor of client on its counterclaim against the plaintiff.
- *Buckman v. Ingersoll Rand Company*, 1:14-cv-00149-GNS, United States District Court for the Western District of Kentucky, 2017: Defended client and served as lead trial counsel in a federal jury trial in which plaintiff sought damages for alleged workers' compensation retaliation. The jury quickly returned a unanimous

defense verdict in favor of client.

- United States District Court for the Eastern District of Kentucky, 2015: Successfully represented individual client and negotiated a satisfactory settlement with respect to her claims against her former employer based on federal Fair Labor Standards Act claims and claims of sex and age discrimination.

## Appeals

- Appointed to the United States Court of Appeals for the Sixth Circuit's Criminal Justice Act Panel in December, 2017. The Criminal Justice Act Panel is a select group of qualified and court-approved attorneys who are eligible for appointment by the Court to represent individuals in criminal cases who are unable for financial reasons to retain counsel.

## Civil Rights Defense

- United States District Court for the Eastern District of Kentucky, 2016: obtained complete defense summary judgment on behalf of clients in a case involving claims of constitutional violations, excessive force, illegal search and seizure, conspiracy and malicious prosecution.
- United States District Court for the Eastern District of Kentucky, 2015: Defended a Kentucky local government and local government agency with respect to plaintiff's claims alleging violations of her civil rights under 42 U.S.C. § 1983 and related state law claims. Motion for summary judgment granted for the agency as to the plaintiff's claims based on battery, assault, unlawful imprisonment and outrage. Judgment granted on all state law claims on the basis of sovereign immunity.

## Recognition

### News

- 39 Bingham Greenebaum Doll Attorneys Included in the 2018 Kentucky and Ohio Super Lawyers® Lists

### Honors and Awards

- Commerce Lexington Leadership Lexington Program, Class of 2018
- Kentucky Super Lawyers List Rising Star for Employment Litigation: Defense, 2018
- *Kentucky Law Journal*, 2006-2008
- University of Kentucky College of Law National Moot Court Team, 2006-2007
- University of Kentucky Gaines Fellowship in the Humanities, 2004- 2005

## Insights

- Co-author, "Supreme Court issues landmark Title VII ruling protecting sexual orientation and gender identity," Dentons client alert, June 16, 2020
- Co-author, "Enforceability of liability waivers to protect against COVID-19 claims", Dentons client alert, June 5, 2020
- Co-author, "What employers need to know about the Families First Coronavirus Response Act," Dentons client alert, March 20, 2020
- "The #MeToo Movement is Pushing Companies to Look Closely at Sexual Harassment Prevention and Gender Bias," July 24, 2018

# Activities and Affiliations

- District of Columbia Bar Association
- Kentucky Bar Association
- Fayette County Bar Association
- FCBA Women Lawyers' Association

## Community Involvement and Pro Bono

- Board of Directors, Lexington Ballet Company
- Board of Directors, Bluegrass Rape Crisis Center
- Fayette District Court, Small Claims Division Mediator
- Member, Women Leading Kentucky
- Fundraising Committee Member, Carnegie Center for Literacy and Learning
- Volunteer Teacher, Junior Achievement of the Bluegrass

## Presentations

- Presenter, "US COVID-19 top Employment and Labor issues to consider for your return-to-work strategy," Dentons webinar, June 5, 2020
- BGD Labor & Employment Breakfast Briefing: "A Conversation about the Fair Labor Standards Act (FLSA) Issues - Exemptions, Overtime, and Independent Contractors," April 2019
- BGD Labor & Employment Breakfast Briefing: "'Sexual Harassment Training Doesn't Work. But Some Things Do.' and Other Recent Headlines: What Employers Need to Know Regarding Sexual Harassment Prevention, the #MeToo Movement, and Gender Bias," March 2018
- BGD Labor & Employment Breakfast Briefing: "An Employer's Guide to the Family and Medical Leave Act (FMLA): Forms, Eligibility, and Other Frequently Asked Questions," November 2017
- BGD Labor & Employment Breakfast Briefing: "The Americans with Disabilities Act (ADA) and Americans with Disabilities Act Amendments Act (ADAAA): Basics and Updates for Employers," August 2017
- BGD Labor & Employment Breakfast Briefing: "Do's and Don'ts of Internal Investigations: How to Avoid Legal Liability by Conducting a Meaningful Investigation into Allegations of Harassment, Discrimination, or Retaliation," March 2017
- BGD Breakfast Briefing: "Sexual Harassment Training Doesn't Work. But Some Things Do." and Other Recent Headlines

## Prior and Present Employment

- Kinkead & Stiliz, PLLC, Associate, 2014-2016
- Special Counsel, Inc., Business Development Director, 2013-2014
- Stoll Keenon Ogden, PLLC, Associate, 2008-2013

## Areas of focus

## Practices

- Appellate Advocacy
- Employment and Labor
- Labor Relations and Collective Labor Law Negotiation with Unions and Employee Representatives
- Wage and Hour/Working Time/Overtime Litigation
- Restructuring, Redundancies and Reductions in Force
- Occupational Safety and Health

## Industry sectors

- Cannabis
- Insurance

## Education

- University of Kentucky College of Law, 2008, JD,
- University of Kentucky, 2005, BA (Economics), *summa cum laude*
- University of Kentucky, 2005, B.A. Political Science, *summa cum laude*

## Admissions and qualifications

- District of Columbia
- Kentucky
- US Court of Appeals for the Sixth Circuit
- US District Court for the Eastern District of Kentucky
- US District Court for the Western District of Kentucky