



Kelly Overstreet Johnson

Shareholder

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Kelly Overstreet Johnson, the third woman elected to serve as president of The Florida Bar, has more than 38 years of experience in business and commercial litigation, various types of employment related litigation, probate and trust litigation, and health care litigation. She also is a highly sought after mediator who relates well to parties and successfully resolves most cases.

Ms. Johnson opened Baker Donelson's Tallahassee office, and is its office managing shareholder. A Florida native and lifelong resident, she defends clients in a wide variety of cases in both state and federal court. She uses her litigation skills and background as a sought-after mediator throughout Florida. She is AV® rated by Martindale-Hubbell, is repeatedly recognized as a *Super Lawyer*, and is in the Legal Elite Hall of Fame.

Ms. Johnson's litigation experience is incredibly varied; she represents many businesses who have relied upon her advice and counsel for many years. She values her relationships with her clients, and prides herself on being readily available as a resource when needed. In cases where litigation becomes necessary, her goal is to promptly evaluate, discuss and strategize on the best approach to achieving the client's goal, which many times involves mediation as a way to resolve cases. By way of example only, Ms. Johnson has handled litigation matters involving employment matters that run the gamut of discrimination claims, negotiated and/or litigated non-compete agreements, and handled claims for deceptive and unfair trade practices. She has also handled matters of probate litigation involving claims for breach of fiduciary duties, litigated matters of undue influence, removal of trustees, and claims for breach of contract; litigated real estate disputes (e.g., partitions and specific performance), and overseen health care related litigation matters. Her extensive experience also makes her a very successful mediator who lawyers choose to use on a regular basis.

Representative Matters

- Successfully initiated and ultimately resolved litigation seeking to amend and modify a last will and testament and related trust document, involving numerous issues relating to a pre-nuptial agreement, breach of trust and undue influence allegations.
- Resolved claims relating to litigation involving termination of hospital privileges with related employment issues.
- Successfully obtained dismissal with prejudice of claims involving termination of a member from a church under the Ecclesiastic Abstention Doctrine asserting the court could not address claims requiring inquiry into religious doctrine, canons, policies and customs of the church.
- Successfully defended and ultimately resolved a residuary beneficiary in probate litigation involving claims of undue influence and breach of fiduciary duty.
- Successfully initiated and resolved litigation involving an appraisal on commercial real estate property resulting in damages to the owner of the property which relied upon the appraisal.
- Represented a homeowners association and successfully obtained permanent injunctive relief requiring removal of a cell phone tower in violation of restrictive covenants.
- Successfully asserted claims for statutory and common law claims for invasion of privacy, misappropriation and false light.
- Represented a widow in probate litigation seeking to reform a will and revocable trust. Despite undisputed evidence of the decedent's intent to provide for the widow, will did not effectively modify trust. Errors were made by decedent's lawyer and widow sought reformation to correct errors from

deceased husband. Children from husband's prior marriage claimed entitlement to all trust assets because the will had not specifically modified the trust. Deceased husband's stepchildren argued client's claim seeking reformation was precluded by a prenuptial agreement. Negotiated a favorable agreement in mediation, which resulted in the client receiving a significant portion of the assets the decedent had intended for her.

- Defended and filed counterclaim on behalf of a residuary beneficiary in probate litigation involving allegations of undue influence and breach of fiduciary duty by the guardian / accountant. Changes had been made to titling of bank accounts to avoid passing through the estate to the residuary beneficiary. Successfully resolved the matter at mediation.
- Defended a lawyer in a legal malpractice matter in which the client was accused of negligence in handling a medical malpractice claim involving the death of an infant. The lawyer, who represented the parents of the deceased child, was involved in a sexual relationship with the client while the case was ongoing. The case was settled following protracted discovery.
- Defended a client in a negligence action brought by the estate of an underage college student who was served alcohol, became intoxicated and was subsequently killed in an accident. The case involved numerous allegations relating to staffing of security personnel, particular days of the week, how the drinks were served and the identification banding process.
- Arbitrated a commercial dispute on behalf of a software company involving millions of dollars in claims and counterclaims arising out of acquisition contracts restricting customer solicitations and marketing. The parties disputed the referral fees owed based on the services covered, the calculation of amounts owed, the triggered provisions of the agreement, and a possible statute of limitations.



Professional Honors & Activities

- Certified Circuit Civil Mediator
- Certified AAA Arbitrator
- AAA Mediator
- Member – American College of Civil Trial Mediators
- Member – BB&T Advisory Board (2016 – Present)
- The Florida Bar (President, 2004 – 2005; President-Elect, 2003 – 2004; Board of Governors, 1997 – 2003; Judicial Independence Committee, 2005 – 2011; Chair, Annual Meeting Committee, 1996; Young Lawyers Division Board of Governors, 1986 – 1990; Executive Council, Alternative Dispute Resolution Section, 2017 – 2021)
- American Bar Association (Member, House of Delegates, 1992 – 1994, 2003 – 2006; Officer, Council of the Section of Litigation, 2012 – 2015; Member, Litigation Section Committee, 1983 – 2019, Co-chair, 2006 – 2013; Member, Corporate Counsel, 2016 – 2019; Member, The Woman Advocate, 2013 – 2019; Member, Commercial & Business Litigation, 2009 – 2019; Member Anti-Trust Litigation, 2017 – 2019; Member, Business Torts & Unfair Competition, 2009 – 2019; Member, Section of Dispute Resolution, Women in Dispute, 2017 – 2019; Member, Alternative Dispute Resolution, 2010 – 2019; Member, Health Law Section, 2016 – 2019)
- Florida Association for Women Lawyers (Treasurer, 1988 – 1989)
- Fellow – American Bar Foundation
- Fellow – Florida Bar Foundation
- Florida Council of Bar Association Presidents
- Florida Government Bar Association
- Inns of Court
- Judicial Nominating Commission, 2nd Judicial Circuit (1990 – 1994 and 2007 – 2011)
- Judicial Nominating Commission, 1st District Court of Appeals (1994 – 1998)
- National Conference of Bar Presidents (Member, Executive Council, 2005 – 2008)
- Tallahassee Bar Association (President, 1990 – 1991; President-Elect, 1989 – 1990; Board of Directors, 1987 – 1989 and 1991 – 1992)

- Tallahassee Women Lawyers Association (President, 1984 – 1985; Treasurer, 1982 – 1984; Board of Directors, 1985 – 1986)
- The Florida Circuit-Civil Mediator Society
- The Florida Academy of Professional Mediators, Inc.
- Diplomate Member – The National Academy of Distinguished Neutrals
- Recognized in *Florida Trend's* "Legal Elite" list in the area of Commercial Litigation (2004 – 2021)
- Named to *Florida Trend's* Legal Elite Hall of Fame (2011 – 2020)
- Recognized in *Best Lawyers in America*® for Employment Law - Management (2011 – 2021); Commercial Litigation (2006 – 2011); Bet-the-Company Litigation (2010 – 2013); Litigation - Labor and Employment (2011) and Labor Law - Management (2011)
- Recognized in *Best Lawyers in America*® as Tallahassee's Employment Law – Management "Lawyer of the Year" (2014)
- Recognized in *Florida Super Lawyers* (2006 – 2020)
- Named to "Top 25 Women Tampa Super Lawyers" list by *Florida Super Lawyers* (2007)
- Named to "Top 50 Women Florida Super Lawyers" list by *Florida Super Lawyers* (2007, 2012, 2014)
- AV® Preeminent™ Peer Review Rated by Martindale-Hubbell
- Recipient – **2018 Martha Barnett Women Lawyers of Achievement Award**, presented by the Tallahassee Bar Association
- Recipient – Tallahassee Women Lawyers Outstanding Achievement Award (2005)
- Named to Continental's Who's Who Registry for National Business Leaders
- Recognized by Marquis as a "Who's Who"
- Recipient – Tallahassee Community College's Outstanding Women of Achievement Award (2004)
- Recipient – Broward County Hispanic Bar Associations' Gracias Award for Commitment to Diversity (2004)
- Recipient – Florida Association for Women Lawyers' Rosemary Barkett Outstanding Achievement Award (2003)



Overstreet Johnson Mediation

Kelly Overstreet Johnson is a Florida certified mediator and lawyer with an active litigation practice. She has practiced law in Tallahassee for more than 38 years, primarily as a commercial and employment litigation attorney, and mediated cases for over a decade, successfully resolving over a thousand cases. She is a Florida Supreme Court Certified Circuit-Civil Mediator and Certified AAA Arbitrator with proven experience in resolving a wide variety of civil and commercial disputes.

Visit overstreetjohnsonmediation.com for more information and to access Ms. Johnson's online mediation calendar.

Ms. Johnson is a highly sought-out mediator as she effectively communicates with parties and brings her years of experience as a litigator and mediator to help the parties discuss the merits of their case. A large percentage of her mediations settle, as the parties have been actively engaged in the process and negotiated and agreed to a resolution on their terms. Lawyers frequently request her mediation counsel because of her litigation skills and background. She mediates a variety of employment, civil and commercial and real estate disputes.



Publications

- "How Will the Coronavirus Pandemic Impact Litigation and Dispute Resolution in the Future?," republished in *New Orleans CityBusiness* (May 2020)
- "Coronavirus: *Force Majeure* and Managing Your Business Risk, Part 3" (April 22, 2020)
- "Coronavirus: *Force Majeure* and Managing Your Business Risk, Part 2" (April 9, 2020)

- "Coronavirus: *Force Majeure* and Managing Your Business Risk, Part 1" (March 25, 2020)
- "Ideas to Spark Joy in Your Office," *Women's Initiative Newsletter* (December 2019)
- "Circuit Split: Expansion of Title VII Protections and Sexual Orientation as a Subset of a Protected Class," *Health Law Alert* (May 2017)
- "Baby Bump in the Road: The EEOC's Recently Published Guidelines on Pregnancy Discrimination Create More Confusion than Clarity," *Complying With Employment Regulations*, (2014 Edition) (January 2014)



Speaking Engagements

- "Marketing and Ethics for the Transitioning Neutrals," The Florida Bar (June 2020)
- "Why #Me Too Matters For Health Care Risk Managers," Florida Society for Healthcare Risk Management & Patient Safety 2018 Annual Meeting (August 2018)
- "Conducting Internal Investigations," Big Bend SHRM 13th Annual HR Tallahassee Conference (June 2017)
- "Sun, Sand & Success – Legal Compliance for Florida Businesses" (October 2016)
- "10 Ways Your Business May Be Breaking Employment Laws," Baker Donelson seminar (September 2015)



Webinars

- Virtual Mediation – Tips for a Successful Online Mediation (April 2020)
- Tips from a Mediator: Do This, Not That (December 2018)



Civic Activities

- Leadership Florida, Class XXIV (2005 – 2006)
- Guardian Ad Litem Program
- Legal Aid Foundation



Education

- Florida State University College of Law, J.D., 1982, cum laude
- Florida State University, B.S., 1979



Admissions

- Florida, 1982
- U.S. District Court of Appeals, 11th Circuit, 1983
- U.S. District Court, Middle, Northern and Southern Districts of Florida, 1983