



Russell W. Gray

Shareholder

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Russell W. Gray represents local, regional and national clients on a full range of labor and employment matters, including wage and hour, drug testing, policy manuals, covenants not to compete, response to union activity, various employment forms, compliance advice and employment litigation.

Mr. Gray also has more than 25 years of experience in commercial and business litigation, including litigation involving contractual matters, trade secrets, stock valuation and real property. He has litigated matters before courts or government agencies in approximately 20 states.

Mr. Gray is the managing shareholder in the Chattanooga office, and he previously served on Baker Donelson's Board of Directors.

Representative Matters

- Defended a major meat processor in a wage and hour collective action through trial and obtained a partial jury verdict in favor of the defendant.
- Obtained settlements and court approvals for at least five wage and hour collective actions involving hundreds of employees and multiple facilities.
- Successfully represented large manufacturers in defeating union organization attempts.
- Obtained complete defense verdict in an age discrimination jury trial involving a manager at a long-term care facility.
- Obtained partial jury verdict in favor of a company in a six-week jury trial including alleged misappropriation of trade secrets.
- Represented numerous companies in responding to investigations by the U.S. Department of Labor, U.S. Department of Homeland Security, Equal Employment Opportunity Commission, and other state and federal government agencies.
- Obtained summary judgment and complete dismissals for defendants in multiple discrimination cases, including age discrimination, race discrimination and reprisal discrimination.
- Obtained favorable rulings for companies in injunction hearings pertaining to noncompetition, nonsolicitation and confidentiality issues.
- Assisted multi-state companies develop and implement various employment policies for their locations in various states.
- Served as lead counsel for the defendant poultry processor in a wage and hour collective action involving workers who claimed that they should be paid for time spent donning and doffing various gear, walking to and from the work station, and washing themselves and their gear. The case involved over 1800 claimants in the original class and over 500 claimants in an additional class. This case, which presented complex issues relating to various employee classes, was successfully settled during a two-day mediation.
- Served as lead counsel for poultry processing company in a union campaign brought by the United Food and Commercial Workers Union (UFCW). The election involved the UFCW trying to organize over 500 workers at the client's plant near Cincinnati, Ohio, which operates three shifts and employs over 600 workers. The parties campaigned intensively for weeks in the election, with the final vote tally 302 to 178 in favor of the client. The campaign also involved Baker Donelson successfully defending and resolving nine unfair labor practice charges on the client's behalf.

- Successfully defended distribution company client against claims by employees alleging that the client employer improperly classified them as exempt from the federal overtime law requirement.
- Successfully defended meat processing company against claims by hourly employees seeking pay for time spent donning and doffing gear, walking, and washing. The case, which involved both federal claims on a collective basis and state law claims on a class action basis, was conditionally certified and settled after a period of discovery.
- Successfully represented and advised meat processing company in an exhaustive, two-year audit by the Department of Labor (DOL). The audit involved up to four DOL investigators being on site at the company for weeks interviewing employees and reviewing documents regarding payroll and time-tracking issues. Defense of the matter included arguing the company's positions on various issues such as exempt/nonexempt issues and time-tracking issues. The DOL ultimately decided not to seek back pay on behalf of any employees or former employees.
- Successfully defended meat manufacturer against claims filed by hourly employees at meat processing plants seeking pay for time spent donning and doffing gear, washing, and walking. The case was conditionally certified and tried before a jury on liability issues following extensive discovery. The jury ruled in part in favor of the plaintiffs and in part in favor of the defendant. The case settled before the parties tried the damages phase of the trial.
- Defended national restaurant chain in lawsuit where hourly employees of a restaurant company sued to recover unpaid wages and overtime because they were allegedly forced to work "off the clock." The case was conditionally certified and settled after years of litigation.
- Defended national restaurant chain against claims filed by restaurant managers to recover unpaid overtime alleging that they were misclassified as exempt due to the employer's policy of docking their pay for cash shortages and damaged or missing property. The case was conditionally certified and settled after years of litigation.
- Defended a poultry processor against race, national origin and gender discrimination, retaliation, and harassment claims brought by 11 individual plaintiffs and a pattern and practice claim brought by the EEOC seeking to recover equitable relief, compensatory damages, and punitive damages on behalf of more than 100 class members that ultimately resulted in a favorable settlement for the client.
- Defended poultry processor in wage and hour litigation brought on behalf of over 5,000 putative class members employed at four different processing plants in three cities in Alabama. Successfully resolved through court approved settlement.
- Defended poultry processor in wage and hour litigation brought on behalf of over 2,000 putative class members employed at two processing plants in two cities in Georgia. Successfully resolved through court approved settlement.
- Successfully decertified conditionally certified class of over 3,000 hourly wage employees in wage and hour litigation filed against poultry processing company and resolved successfully through mediation.



Professional Honors & Activities

- Listed in *The Best Lawyers in America*® in Labor and Employment Law since 2011
- Named the *Best Lawyers'* 2019 Chattanooga Labor Law - Management "Lawyer of the Year"
- Listed in *Mid-South Super Lawyers* (2011 – 2020)
- Recipient – Baker Donelson Chattanooga Pro Bono Attorney of the Year (2008)
- Member – Chattanooga, Tennessee, American and Federal Bar Associations
- Adjunct Professor – University of Tennessee at Chattanooga
- Former President – Chattanooga Bar Association's Young Lawyers Division
- Law Clerk for the Honorable R. Allan Edgar, U.S. District Judge, Eastern District of Tennessee (1993 – 1995)
- Managing Editor – *American University Law Review* (1992 – 1993)
- President – Student Government Association, University of Tennessee (1987 – 1988)

- Torchbearer – University of Tennessee (1988)



Publications

- "Common Ground: Holidays and Saying Goodbye to 2020," *Diversity Matters Newsletter* (January 2021)
- "The Arts: A Critical Part of Coping," *Women's Initiative Newsletter* (October 2020)
- "Baker's Dozen: How Do You Take a Breath?," *Women's Initiative Newsletter* (September 2020)
- "Serving Up Disruption: The New Age of Political Protests in Restaurants and Other Public Places" (December 2018)
- "Is the Trump Administration Signaling No Employment Protection Based on Sexual Orientation?," *McKnight's* (August 2017)
- "Beyond "You're Fired": Key Points for Executing Terminations" (August 2017)
- "Comp Time: A New Day for Overtime Pay?," *McKnight's* (June 2017)
- "Ten Labor and Employment Law Danger Areas for Long-Term Care Facilities," Bloomberg BNA, Health Law Report (November 2015)
- Co-author – "The Other Brown Case: The Promise of the U.S. Constitution at Work in Chattanooga," *The Federal Lawyer* (May 2013)



Speaking Engagements

- "Understanding Your Employment Risks and Complying with Fiduciary Duty" (October 2018)
- "Take This Job and Shove It: Hot Employment Law Issues in Long Term Care," 2016 LTC Symposium, Nashville, Tennessee (November 2016)
- "Common Employment Issues for Businesses," North Chattanooga Council Meeting (October 2014)
- Co-presenter – "The NLRB and the Non-Union Employer," Webinar (April 2014)
- Panelist – "Birds of a Feather Stick Together: A Real Life Story of a Tough Union Organization Campaign and Lessons Learned," Southern Automotive Conference, Chattanooga, Tennessee (October 2012)
- "The New World of E-Verify and Related State Law," Annual Conference of the Chattanooga Area Society for Healthcare Human Resource Administration (January 2012)
- "Information Privacy and Security Basics," Chattanooga Technology Council (November 2011)
- "Reelin' In The Year (A Year In Review)," Tennessee State Conference for the Society of Human Resources Management (September 2011)



Webinars

- Return to Work Protocol – What Employers Need to Know (April 2020)
- Employment Issues Keeping Us All Awake at Night (November 2018)
- Employment Law Under Trump: What LTC Providers Need to Know (May 2017)
- Protected Concerted Activity: The Labor Board's Trap for Nonunion Employers (October 2016)



Education

- American University, Washington College of Law, J.D., 1993, summa cum laude
- University of Tennessee, Knoxville, B.A., 1988, with high honors



Admissions

- Tennessee, 1993