



## Brian Ballay

Shareholder

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Brian M. Ballay concentrates his practice in commercial litigation, including contract and business litigation, disputes involving life insurance policies and annuities, unfair trade practices and trade secrets, employment disputes and construction law.

In the areas of employment law, Mr. Ballay focuses on unique wage and hour issues that arise under federal contracting law, including the Davis-Bacon and Service Contract Acts. In this regard, he has substantial experience counseling clients during wage and hour investigations conducted by the United States Department of Labor.

Further, he has assisted clients with bidding/rebidding on federal contracts governed by the Service Contract Act and satisfaction of prevailing wage requirements, including, but not limited to, conformance requests, satisfaction of health and welfare benefits, vacation and holiday pay issues.

Prior to joining Baker Donelson, he served as a judicial clerk for the Honorable Carl J. Barbier, United States District Court, Eastern District of Louisiana.

### Representative Matters

- Provided advice with respect to record keeping requirements and payments of health and welfare benefits on a federal communications contract.
- Provided advice regarding Service Contract Act wage issues involving food-service contracts on military bases.
- Advised clients with respect to Davis-Bacon Act record keeping and wage requirements for VA hospital construction.
- Advised clients with respect to conformance process for service contracts.
- Represented a national contractor in a large scale wage and hour investigation conducted under the Service Contract Act involving thousands of laborers.
- Represented local contractors in wage and hour audits by the U.S. Department of Labor.
- Prevailed before the Louisiana Court of Appeal, First Circuit in an appeal from a confirmed default judgment with the result that the judgment, which included injunctive relief, declaratory relief, monetary damages, the disqualification of prior counsel, statutory penalties and attorneys' fee awards, was vacated in its entirety because it was rendered without proper notice.
- Obtained a judgment from the Louisiana Court of Appeal, First Circuit on behalf of a bank, vacating a trial court's judgment as null in a residential foreclosure action, after a debtor obtained a default judgment against a bank in an ex parte proceeding, resulting in the bank filing for a new trial, asserting a lack of notice. The circuit court vacated the trial court's judgment because the debtor had failed to send required notice of the date of the entry of the judgment of default by certified mail at least seven days, exclusive of holidays, before confirmation of the judgment of default, as is required by law.
- Prevailed on appeal before the Louisiana Court of Appeals, Fourth Circuit, which affirmed the decision of the Civil District Court for the Parish of Orleans, Louisiana dismissing a gross negligence suit against a mortgage servicer related to alleged lender misconduct in the administration of so-called Section 203(k) financing.

- Defended a construction/project management company in a matter involving a payment dispute, resulting in dismissal of a lawsuit and 100 percent recovery on the client's counter-claim in an arbitration hearing.
- Successfully defended a nationwide retail chain in an eviction and lease dissolution lawsuit filed by its landlord in the United States District Court for the Eastern District of Louisiana, resulting in denial of the eviction and continuation of the lease.
- Won summary judgment for a Louisiana dental practice in a lawsuit by a former member disputing the valuation method for his ownership interest. The Louisiana Fourth Circuit Court of Appeal affirmed the judgment.



## Professional Honors & Activities

- Listed in *The Best Lawyers in America*® in Commercial Litigation, 2021, 2022
- Listed in *Louisiana Super Lawyers* in the area of Business Litigation, 2018 – 2021
- Listed as a Louisiana Rising Star by *Louisiana Super Lawyers*, 2014
- Member – Louisiana State Bar Association
- Member – Federal Bar Association
- Member – American Bar Association
- Member – New Orleans Bar Association
- Member – Jefferson Parish Bar Association
- Member – Thomas More American Inn of Court



## Publications

- Co-author – "LUTPA Standing: Plus Ça Change, Plus C'est La Même Chose....," *Louisiana Bar Journal*, Volume 54, Number 4 (December 2011-January 2012)



## Education

- Loyola University School of Law, J.D., 2004, magna cum laude
  - Editor-in-Chief, *Loyola Law Review*, 2003 – 2004
  - William L. Crowe, Sr. Scholar
- Louisiana State University, B.A., 1997



## Admissions

- Louisiana
- United States District Courts, Eastern, Middle and Western Districts of Louisiana
- United States Fifth Circuit Court of Appeals
- United States District Court, Southern District of Mississippi, *pro hac vice*
- United States District Court, Southern District of Texas, *pro hac vice*