



## Emily Olivier Kesler

Shareholder

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Emily Olivier Kesler focuses her practice primarily on defending government investigations and enforcement actions, as well as discrimination, harassment, and retaliation claims, and wage and hour litigation.

As a member of Baker Donelson's Government Enforcement and Investigations Group, Ms. Kesler represents and advises individuals and entities threatened with or facing any phase of government action, enforcement, or investigation. She has significant experience defending federal False Claims Act litigation, with a particular focus on the health care industry and government contracts. Ms. Kesler has also represented individuals in connection with white collar criminal matters involving allegations of public corruption and fraud.

Ms. Kesler's practice also focuses on advising employers, particularly in developing handbooks and other policies and procedures. She has defended employers of various sizes against claims brought under Title VII of the Civil Rights Act, Section 1981 of the Civil Rights Act, the Age Discrimination in Employment Act (ADEA), the Americans with Disabilities Act (ADA), and the Family and Medical Leave Act (FMLA), as well as similar state and federal laws governing employment discrimination, harassment, and retaliation before the Equal Employment Opportunity Commission (EEOC), in arbitration, and in state and federal courts.

Ms. Kesler also defends employers in complex wage and hour matters, including class and collective actions, involving claims for minimum wage, overtime, misclassification, retaliation, and joint employment under the Fair Labor Standards Act (FLSA), as well as state law wage claims in construction, hospitality, technology, and other business sectors. Additionally, she has worked on a variety of matters with an emphasis on issues related to fiduciary breaches, contractual breaches, tortious interference with contract, misappropriation, and unfair and deceptive trade practices.

### Representative Matters

- Represented more than a dozen former directors of a failed bank in connection with allegations of breach of fiduciary duty, negligence, and mismanagement.
- Represented numerous health care practices and individuals, as well as hospital systems, in connection with state and federal investigations concerning allegations of health care fraud, including compounding pharmacy matters, False Claims Act matters, kickbacks, and other business practices.
- Represented a public official in connection with allegations of public corruption and fraud.
- Represented a federally regulated financial institution in connection with claims of negligence and breaches of fiduciary duty concerning loan practices.
- Represented government contractors against intervened and declined False Claims Act lawsuits.
- Successfully settled two nationwide collective and class action lawsuits on behalf of an online food delivery company. The company was sued by delivery drivers alleging violations of the Fair Labor Standards Act, as well as state wage and hour laws, and seeking recovery of unpaid wages for thousands of potential plaintiffs.
- Obtained judgment in favor of an online food delivery company in an arbitration in which a former employee alleged violations of the Fair Labor Standards Act and state laws in connection with his termination.

- Obtained summary judgment on behalf of a management services company in an ADA lawsuit brought by a former employee alleging she was terminated because of her association with her disabled child.
- Obtained summary judgment on behalf of an automation services provider in an FMLA interference and retaliation lawsuit brought by a former employee alleging he was wrongfully terminated due to his use of FMLA leave and/or that his termination interfered with his right to FMLA leave and constituted a failure to accommodate in violation of Louisiana disability law.
- Obtained dismissal of legal malpractice claim against an attorney and law firm in Louisiana state court.
- Defeated class and collective claims against an oil and gas company through enforcement of a waiver provision in a third-party agreement.
- Obtained summary judgment on behalf of a construction company in an ADA and Title VII lawsuit brought by former employees alleging they were terminated because of their sex (female), disability, or association with an individual with a disability.
- Obtained partial summary judgment on behalf of a health care provider in a lawsuit brought by a former employee alleging failure to accommodate, retaliation, and battery.
- Represented a low-income housing provider in several multi-plaintiff toxic mold exposure lawsuits and achieved favorable settlements on behalf of the client.



## Professional Honors & Activities

- Selected to Louisiana Rising Stars in Employment & Labor (2024, 2025)
- Chair of Pro Bono/Philanthropy Committee of New Orleans Federal Bar Association, Younger Lawyers Division (2024 – 2025)
- Vice Chair of Law School Committee of New Orleans Federal Bar Association, Younger Lawyers Division (2023 – 2024)
- Vice Chair of Pro Bono/Philanthropy Committee of New Orleans Federal Bar Association, Younger Lawyers Division (2022 – 2023)
- Board Member – New Orleans Federal Bar Association, Young Lawyers Division
- Member – Louisiana Bar Association
- Member – American Bar Association



## Publications

- "First Circuit Requires But-For Causation for FCA Liability Based on AKS Violations," republished on February 28, 2025, in *Law360* (February 2025)
- "Zafirov Decision: A Turning Point or Just Another Chapter in Qui Tam?" (October 2024)
- "Tipped Over: Fifth Circuit Vacates the DOL's Rule for Tipped Employees," republished October 16, 2024, in *HR Daily Advisor* (September 2024)
- "What Employers Should Know About the EEOC's Proposed PWFA Regulations" (August 2023)
- "National Labor Relations Board's Recent Rulemaking Agenda," republished by *Westlaw Journal Employment* (July 2019)



## Speaking Engagements

- "Leave Me Alone: A Leave Accommodations Management Workshop" (February 2025)
- "Maximizing ADA/FMLA Compliance: How to Handle Complex Issues Related to Employee Leave and ADA Accommodations," Baker Donelson Labor & Employment Seminar (September 2023)
- "Employee Handbooks: From Neglected to Essential in Managing the New Workplace," Baker Donelson Labor & Employment Seminar (November 2022)
- "The Great Workplace Transformation: New Thoughts on Policies, Pay, and Prevention" (November 2022)

- "FMLA and ADA Compliance," Baker Donelson Labor & Employment Seminar (December 2019)
- "Legal Issues in Recruiting and Hiring" (February 2019)
- "The Inside Scoop: Understanding and Reducing Legal Risks in the Workplace" (December 2018)
- "Stumped by Trump? Employment Law Under the New Administration," Baker Donelson Labor & Employment Seminar (November 2017)



## Webinars

- What You Should Expect if Your Employee is Expecting (April 2023)
- 2020 Fair Housing Act Training (November 2020)



## Education

- William & Mary Law School, J.D., 2017, magna cum laude
  - Lead Articles Editor – *William & Mary Law Review*
  - University of Georgia, B.A., 2014, summa cum laude



## Admissions

- Louisiana
- U.S. Court of Appeals for the Fifth Circuit
- U.S. District Courts for the Eastern, Middle, and Western Districts of Louisiana