Kyle D. Johnson

Partner

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Industries

Industrials

Manufacturing

Practice Areas

Employee Safety & OSHA

Labor & Employment

Wage & Hour

Bar Memberships

Kentucky

Indiana

Kyle understands the problems that face management. Whether it's a problematic employee, a problematic union, a problematic government agency or a problematic lawsuit, Kyle stands ready to provide timely and efficient solutions to these types of labor and employment issues.

Employers turn to Kyle when they are confronted with these types of problems because he gives prompt attention to all of his clients regardless of how simple or complex the legal issue. Kyle strives to understand his clients' business needs so that he can provide workable solutions for any employment situation.

Kyle achieves these goals in the most cost-effective and efficient manner possible. For example:

- **Preventative solutions.** Kyle has a deep understanding of all aspects of labor and employment law. His intricate knowledge of these laws allows him to provide timely and straightforward solutions to problems that may confront employers. The solutions Kyle provides help keep employers out of court, and avoid the costly expense of litigation.
- **Zealous advocacy.** Litigation cannot always be avoided, and when it can't, Kyle provides zealous representation for all his clients. Whether it's a lawsuit, an arbitration, a charge, a government investigation, or an OSHA or MSHA citation, Kyle uses his extensive knowledge of the court system, arbitrators, and government agencies to provide zealous advocacy on behalf of his clients.

- **Thorough research.** Not all labor and employment problems are created equally. Sometimes the answers are easy to come by. But sometimes, legal research is needed to formulate a solution. Kyle's research skills allow him to ***efficiently*** find solutions to almost any legal issue and do so in a ***cost-effective*** manner**.**
- **Straightforward, compelling legal arguments.** Boring and mundane legal arguments generally do not win cases. But Kyle is known for his straightforward, compelling legal analysis designed to catch a judge's attention and convince the judge that the employer is in the right. Kyle has used this technique to secure dismissals of many cases pending before courts and government agencies alike.
- **Ability to understand and provide assistance on novel and complex legal issues**. Employers are facing complex regulations and litigation today, more than ever. Whether it's complex litigation (such as class actions or collective actions), or complex and hard-to-understand government regulations, Kyle can help employers through this ever-changing legal climate. Kyle has extensive experience litigating complex matters and stays on top of the new laws and regulations ready to assist employers whenever the need may arise.

Kyle appears regularly before state and federal courts and administrative agencies, including the Occupational Safety and Health Review Commission, the Mine Safety and Health Review Commission, the U.S. Department of Labor, the Kentucky Labor Cabinet, the Equal Employment Opportunity Commission, and the Kentucky Commission on Human Rights.

When Kyle is not working, he enjoys spending time with his wife and five children, enjoys running, and is an avid racquetball player.

Kyle's Relevant Experience

Employment

Regularly advise and train clients on compliance with all aspects of employment law, such as: FMLA compliance, ADA/Disability

compliance, and compliance with civil rights laws.

Assist clients facing investigations being conducted by the EEOC and Kentucky Commission on Human Rights.

Obtained court order denying class certification on behalf of packaging company facing claims of disparate treatment and disparate impact discrimination based upon company's alleged criminal background check policies.

Successfully defended logistics company facing claims of race discrimination and retaliation by obtaining order from federal court dismissing the lawsuit.

Successfully defended food company against claims of pregnancy discrimination and retaliation by obtaining order from federal court dismissing the lawsuit.

Successfully defended manufacturing company against a charge of race discrimination filed with the Kentucky Commission on Human Rights by obtaining a "no probable cause" determination.

Successfully advocated denial of unemployment benefits before the Kentucky Unemployment Insurance Commission.

Wage and Hour

Regularly advise and train clients on wage and hour compliance, such as: the Fair Labor Standards Act, minimum wage and overtime laws, wage payment laws, and equal pay laws.

Assist clients facing investigations being conducted by the U.S. Department of Labor or the Kentucky Labor Cabinet.

Obtained court order dismissing class action claims alleging tipping and other wage/hour violations against restaurant.

Obtained court order dismissing class action claims alleging misclassification and other wage/hour violations against delivery company.

Successfully defended delivery company facing misclassification claims by obtaining order from federal court dismissing the lawsuit.

Successfully defended distributor against wage and hour complaint filed with the Kentucky Labor Cabinet.

Assisted restaurant with wage and hour investigation conducted by the Federal Department of Labor.

Defended numerous companies facing lawsuits alleging wage and hour violations under the Federal Fair Labor Standards Act and the Kentucky Wage and Hour Act.

Represented and defended companies in court who are facing class action and collective action lawsuits.

OSHA/MSHA

Regularly advise and train clients on OSHA compliance, workplace injuries, and health and safety inspections.

Defended warehousing company through trial of OSHA citation and obtained Review Commission decision vacating alleged serious citations.

Defended logistics company through trial of OSHA citations and obtained Review Commission decision vacating alleged serious citations.

Defended department store through trial of OSHA citations and obtained Review Commission decision vacating alleged serious citations.

Successfully represented contractors facing MSHA special investigations.

Defended contractor in response to an MSHA discrimination complaint.

Defended contractors in response to MSHA citations

Represented numerous companies before the Franklin Circuit Court, Kentucky Court of Appeals, and Kentucky Supreme Court defending favorable decisions issued by Kentucky Review Commission and seeking judicial review of adverse decisions issued by the Kentucky Review Commission.

Negotiated many settlements with Federal OSHA, Kentucky OSHA, and Indiana OSHA on behalf of clients facing alleged serious and willful citations.

Regularly advise clients on OSHA and MSHA procedures and assist clients with developing strategies to advocate for OSHA's and MSHA's voluntary dismissal of citations.

Unions

Regularly advise and train clients on numerous labor-management relation issues, such as: implementing work rules that comply with the National Labor Relations Act, implementing policies and practices that comply with collective bargaining agreement, compliance with right-to-work laws, and union avoidance.

Secured a court decision finding county right-to-work ordinances to be a valid exercise of state law under the National Labor Relations Act.

Successfully defended various companies against union grievances submitted to arbitration.

Successfully defended manufacturing company against union lawsuit seeking to compel arbitration of pension plan determination.

ERISA

Successfully defended a client's benefit determination both in a federal trial court and before the Sixth Circuit.

Successfully advocated for application of deferential standard of review in numerous cases pending in federal court.

Successfully obtained dismissal of breach of fiduciary duty claims.

Other Info About Kyle

Education

University of Louisville, Louis D. Brandeis School of Law, J.D., 2008, *summa cum laude*

University of Wisconsin, B.A., Political Science/Psychology, 2003

Clerkships

Hon. Joseph H. McKinley, Jr., United States District Court, Western District of Kentucky

Hon. Hanly A. Ingram, United States District Court, Eastern District of Kentucky

Courts

United States Supreme Court

U.S. Court of Appeals for the Sixth Circuit

United States District Court Western District of Kentucky

United States District Court Eastern District of Kentucky

Recognition

Kentucky Rising Stars®, 2015-2016, 2020

Professional Affiliations

American Bar Association

Kentucky Bar Association

Louisville Bar Association

Featured Articles

Future-Proofing Production Facilities

Future-Proofing Production Facilities: How to Prepare for and Manage Crisis Scenarios

OSHA Finalizes Rule Clarifying "Employee Representative" Designation Process for Walkaround Inspections

OSHA Finalizes Rule Requiring Electronic Submission of Comprehensive Injury and Illness Data

EEOC Changes Position on COVID-19 Testing and Clarifies Other Protocols

OSHA Set to Revive Rule Requiring Electronic Submission of OSHA Form 300 and 301 Data

OSHA Set to Withdraw Vaccine-or-Test Mandate

Employers Rejoice! Supreme Court Stays OSHA's Vaccine-or-Test Mandate

Federal Contractor Vaccine Mandate Remains Blocked in Kentucky, Ohio, and Tennessee

Despite Fifth Circuit Decision, CMS Vaccine Mandate Remains Stayed in 24 States

OSHA Sets New Compliance Deadlines in Response to Sixth Circuit Decision Dissolving Stay on OSHA Vaccine-or-Test Mandate

Federal Court Blocks Enforcement of Federal Contractor Vaccine Mandate Nationwide

Federal Court Blocks Enforcement of Federal Contractor Vaccine Mandate in Kentucky, Ohio, and Tennessee

Must State and Local Governments Follow OSHA's Vaccine and Testing Mandate?

OSHA Releases COVID-19 Vaccination and Testing Emergency Temporary Standard

Mandatory Vaccines Update: OSHA Sends Draft ETS to White House

Biden Bombshell: Employers With 100+ Employees Must Require COVID-19 Vaccinations or Weekly Tests

OSHA Issues New COVID-19 Safety Rules for Healthcare Sector and New Guidelines for All Industries

OSHA Proposes Changes to the Hazard Communication Standard

DOL Delays Regulations and Withdraws Previously Issued Guidance Documents

New DOL Regulations Provide Clarity for Compensating Tipped Employees

OSHA Reiterates Stance on Cloth Face Coverings and PPE

Wage & Hour Update and Implications | After COVID Webinar Series

OSHA Updates COVID-19 Recordkeeping Requirements and Enforcement Policy

OSHA Update: Recording Cases of COVID-19

OSHA and Coronavirus: Guidance for Employers

Proposed Amendments Could Substantially Broaden Kentucky's Workplace Injury and Illness Reporting Requirements

Kentucky Passes the Pregnant Workers Act

Employers Beware: OSHA Penalties Increasing

OSHA Clarifies Position on Safety Incentive Programs and Post-Incident Drug Testing

New Rules for Employers with Tipped Employees

Supreme Court Adopts Broader View of FLSA Exemptions

DOL's Overtime Rule Struck Down

Overtime Regulations Struck Down: The Department of Labor is forbidden from enforcing new salary threshold

OSHA's Anti-Retaliation Regulation May Impact Your Workplace Policies

New Overtime Rules Released Today

OSHA Penalty Limits Are Increasing For the First Time in 25 Years

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