



## KIMBERLY L. RUSSELL

### Principal

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Kimberly L. Russell is the Chairperson of the Employment Law Department. Kimberly's practice focuses on representing employers in a variety of matters including best management practices, workforce management for multistate and "virtual office" employers, avoiding employment claims, employee counseling (including discipline and termination), workforce training (including for insurance/contract compliance), management and executive training, workplace investigations, and dispute resolution. Kimberly handles a vast array of claims for employers including harassment and discrimination claims of all types, wage and hour claims (including overtime), Family and Medical Leave Act claims, management of disability issues, issues under the Affordable Care Act, HIPAA, unemployment compensation, employment contracts (including protection of confidential/trade secret information), and executive contracts. She handles claims for her clients in Pennsylvania, New Jersey, Federal Courts, and before the Equal Employment Opportunity Commission, Pennsylvania Human Relations Commission, New Jersey Division on Civil Rights, municipal human relations commissions, the Department of Labor (including the Wage and Hour Division), various unemployment compensation bureaus, and private arbitration and mediation.

Kimberly is the founder of the Employers' Legal Defense Institute (SM) at Kaplin Stewart. She founded the ELDI as part of her ongoing effort to educate and train employers on workforce management issues in order to help employers mitigate risks from employee claims and the resulting costs and disruption to the workplace. For more information on the ELDI, please visit [www.ELDI.legal](http://www.ELDI.legal).

Kimberly frequently tells her clients that although discrimination does occur still and should not be tolerated, the "system" goes too far in allowing employees and their lawyers to bring baseless claims without consequence and allowing employees to manipulate that "system," all at great cost to employers and the employees left behind. She believes strongly that "the best offense is a great defense" and works with her clients to comply with the law, treat all employees fairly, and be able to present a strong, aggressive defense when necessary. Employers often find themselves in emergencies (i.e. needing to terminate someone immediately, but not knowing whether it is "safe" to do so). Kimberly often describes much of her practice as an "Employment Law Hotline," where she will help an employer navigate a

specific urgent situation, plan termination or discipline, and then help the employer avoid similar risks in the future. Employers never can prepare for everything, but strong workplace practices are the start of a more productive workplace.

Kimberly initially concentrated her practice on real estate and commercial litigation, representing developers, builders, and related companies in the defense of numerous real estate sale and development disputes, contract claims, construction defect claims, and commercial disputes. When one of those clients was sued for alleged sexual harassment by a perpetually unhappy and unproductive employee, she began her defense of employers and has worked for the last two decades to help employers navigate and mitigate risk in a system that is inherently biased against employers.

## Practice Areas

- Commercial Litigation
- Alternative Dispute Resolution
- Litigation and Appellate Practice
- Employment Law
- Employment Agreements and Related Disputes/Litigation
- Employer Compliance Assistance
- Litigation and Claims before Equal Employment Opportunity Commission (EEOC) and State Commissions
- Wage and Hour Disputes
- Workplace Harassment and Discrimination

## Community Involvement

- Counsel for a local religious organization
- Created Child Safety Policy aimed at protecting children from abuse

## Representative Experience

For more than twenty years, Kimberly has represented employers both in workforce management and counseling matters, as well as litigation. She concentrates her practice in virtually all areas of employment law, helping employers to mitigate risk through legal compliance and position themselves for a strong defense of claims which do arise.

Kimberly's broad experience in the realm of employment law includes:

## Workforce Management/Training/Counseling

Compliance training and counseling for employers regarding:

- Antidiscrimination policies
- Workplace disputes
- Leave laws
- Disability Accommodation
- Religious Accommodation
- Employee discipline issues
- Hiring
- Termination
- Performance reviews
- Overtime – management of overtime and classification of employees
- Affordable Care Act
- COBRA
- HIPAA
- Management/HR professional training on harassment, discrimination, accountability, communications and appropriate relationships with subordinates
- Private executive management training for HR professionals and non-HR professional executives
- Workplace investigations and dispute resolution (including investigation of harassment/discrimination)
- Workforce training on harassment, discrimination, workplace privacy and communication (including training for insurance/contract compliance)
- Employee handbooks and related workplace policies including drug testing, dress codes, social media
- HR policy and procedure manuals
- Employment contracts, including confidentiality, nonsolicitation, and trade secret protections
- Executive contracts
- Employee counseling and disciplinary reviews
- High profile/difficult terminations – planning and implementation, conducting terminations
- Layoff planning and implementation – including a selection of employees for layoff
- Consulting with employers regarding the hiring of HR professionals – screening and interviewing candidates

## Employment Litigation

- Discrimination litigation (age, gender, disability, race, national origin, etc.)

- Family and Medical Leave Act (FMLA) litigation – including the interplay between FMLA and Americans with Disabilities Act
- Wage and Hour litigation – Fair Labor Standards Act (including overtime), Wage Payment and Collection law
- Employment contract and wage disputes – commission/bonus disputes, nonsolicitation, noncompetition, confidentiality agreements
- Unemployment compensation litigation
- Litigation before the Equal Employment Opportunity Commission and the Department of Labor
- Litigation before state anti-discrimination agencies
- Litigation before local/municipal anti-discrimination agencies
- Private arbitration and mediation

## Real Estate and Commercial Litigation

Kimberly counsels and defends commercial enterprises, builders, and developers of all sizes in numerous disputes and issues that arise in the daily operation and protection of their businesses. She has handled a wide array of real estate and commercial disputes in Federal Court, Pennsylvania, and New Jersey, as well as in Federal and State agencies overseeing real estate and commercial disputes such as fair housing, accessibility standards, real estate licensing, and disputes over the conduct of licensed professionals.

Kimberly represents numerous companies in matters related to contract review and compliance, including review and compliance related to intellectual property, software development, and protection of trade secret and proprietary information.

Kimberly's varied experience in real estate and commercial litigation also includes:

- Disputes over land sale/real estate contracts, including lis pendens and specific performance
- Disputes between contractors and subcontractors, including contract/confidentiality issues
- Fair Housing issues, including disputes over the sale and rental practices, accessibility of buildings
- Business disputes, including contract disputes and issues regarding confidentiality and protection of trade secret information
- Disputes between homebuilders and homebuyers
- Landlord/Tenant Litigation, including Fair Housing
- Real Estate Seller's Disclosure Law litigation
- Commercial disputes related to fraud and the Unfair Trade Practices and Consumer Protection Law
- Complaints against licensed professionals filed with state agencies, including real estate salespersons/brokers

- Defamation, including disputes over website/internet postings
- Disputes between developers and municipal agencies/utilities