

**Kimberly R. Stuart** *Shareholder*

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## Overview

Kimberly R. Stuart practices appellate law, commercial litigation, and employment and labor law.

As the oldest of her generation in a very large Italian family from Brooklyn (who got to Texas as quickly as she could), Kimberly learned early that to be heard, you have to get into the action, make your point quickly, and be ready to defend it. Kimberly puts this experience to use in her practice by dealing with her clients openly and frankly.

Kimberly began her legal career as a briefing attorney to Judge Margaret Garner Mirabal on the Court of Appeals for the First District of Texas. That experience helped her to identify what it takes to preserve a record at trial and what judges look for in appellate briefing.

Kimberly's representative employment law experience includes successfully defending employers in FLSA wage actions and Title VII litigation. She has also effectively represented employees and employers in matters related to covenants not to compete and fiduciary duties. Additionally, Kimberly has successfully defended her clients, from Fortune 500 companies to sole proprietorships, in products liability matters including toxic tort defense and appeals. In the area of premises liability, Kimberly won victories for Fortune 500 companies, such as Walmart and Home Depot, in state and federal appellate courts.

Kimberly knows that the key to a good settlement is strong trial preparation. She prides herself on building lasting and solid relationships with her clients so she can anticipate their needs and guide them to the best decision, whether it is to compromise or go the distance.

An important part of Kimberly's practice is helping her clients avoid

## Education

South Texas College of Law, J.D., cum laude, May 1996

H. Sophie Newcomb Memorial College at Tulane University, B.A. in Political Science and Communication, 1991

## Practice Areas

Commercial Litigation

Employment and Labor Law

Appellate

## Admissions

Texas, 1996

United States District Courts for the  
Southern and Eastern Districts of Texas

U.S. Court of Appeals for the Fifth Circuit

United States Supreme Court

litigation altogether through reviewing contracts, examining trade secret and confidential information protection, conducting self-audits to ensure regulatory compliance, and assisting clients with best practices training and compliance.

In her employment practice outside the courtroom, Kimberly handles all varieties of employment disputes, including claims of discrimination, retaliation, harassment, wrongful termination, breach of contract, and employment-related torts. She drafts, evaluates, and updates personnel handbooks, workplace policies, employment contracts, and severance agreements.

Kimberly has defended numerous clients in matters before the Equal Employment Opportunity Commission, Texas Workforce Commission, and the Department of Labor, as well as other state and federal agencies, resulting in dismissals.

## Representative Experience

- Obtained decision from Texas Workforce Commission that national assisted living provider was not engaged in payroll resulting in a dismissal and refund of hundreds of thousands of dollars in paid and unpaid alleged unemployment taxes
- Obtained second largest intentional tort verdict in Texas in 2016 for individual client against family members and family business for malicious prosecution, defamation and breach of fiduciary duties
- Argued for denial of collective action status and obtained dismissal by summary judgment for automotive services franchiser in suit by former employee for alleged FLSA violations
- Obtained jury verdict for multi-national client against former CEO for lost profits resulting from theft of trade secrets before Honorable David Hittner, Southern District of Texas
- Obtained permanent injunction and jury verdict for local oil and gas industry service provider against former employee for theft of trade secrets before Magistrate Stephen Smith, Southern District of Texas
- Resolved claims of members of medical practice against managing member for breaches of fiduciary duty
- Defense verdict for national company in suit by former employee for alleged FLSA violations
- *Cambio v. Briers*, 2015 WL 2229274 (Tex. App.—Houston [1st Dist.] 2015)

- K.J. and V.J., v. USA Water Polo, Inc., 383 S.W.3d 593 (Tex. App.—Houston [14th Dist.] 2012)
- Mushtaha v. Kidd, 2010WL5395694 (Tex. App.—Houston [1st Dist.] 2010)
- Blum v. Lanier, 997 S.W.2d 259 (Tex. 1999)
- In re L & L Kempwood Associates, L.P., 9 S.W.3d 125 (Tex. 1999)
- Walmart Stores, Inc. v. Rodrigo Bazan, 996 S.W.2d 745 (Tex. App.—San Antonio, 1998)
- Bandeaux v. Home Depot USA, Inc., 136 F.3d 136 (5th Cir. 1998) (unreported)
- Blum v. Lanier, 2 S.W.3d 278 (Tex. App.—Houston [14th Dist.] 1997)

## Publications/ Speeches

- "Hot Topics in Employment Law." Houston Association of Legal Professionals, November 2018.
- "Employment Law Chic: An Employment Law Primer for Businesses." Women's Business Enterprise Alliance 2014.
- "Put your Sherlock Holmes Hat On: The Who, What, Where, When & How of Conducting Investigations of Employment Complaints." Lorman Education Services Seminar 2008.
- "Putting your Money where your SOX is: Sarbanes-Oxley and the Financial Implications of Retaining, Reporting and Auditing." Lorman Education Services Seminar on Document Retention and Destruction in Texas. Summer 2005, Spring 2011.
- "Singapore Accident, Singapore Plaintiff, Singapore Law, Where Else But Texas? Texas Courts Will Apply State Forum Non Conveniens Law in Admiralty Actions Involving Foreign Nationals, Exxon Corp. v. Chick Kam Choo 881 S.W.2d 301 (Tex. 1994)." 37 S. TEX. L. REV. 231 (1996).

## Recognitions/ Awards

Recognitions:

- AV Preeminent Rating from Martindale-Hubbell
- Selected for membership to America's Top 100 Civil Defense Litigators®, 2019
- *Houston Top Lawyers-Employment*, Houstonia Magazine, 2017
- Included in the list of Texas Rising Stars for 2005-2009 by Thomson Reuters
- 2013 Top Lawyers in Texas, The Legal Network Empire Who's Who

Awards and Honors:

- South Texas Law Review assistant editor
- Order of the Barristers
- F. Lee Bailey Moot Court Competition
- Philip C. Jessup International Moot Court Competition Regional Finalist
- John Marshall National Privacy Moot Court Competition Quarter finalist
- John Brown National Admiralty Moot Court Competition Finalist, Best Petitioner's Brief
- Giles Rich Intellectual Property Moot Court Competition Regional Quarter finalist, Best Oralist, Best Appellee's Brief
- Thomas Tang National Moot Court Competition, Regional Semi-finalist, Second Best Oralist

## Associations

- Houston Bar Association
- American Bar Association
- Southern District of Texas
- Bar Association of the Fifth Circuit
- Fifth Circuit Bar
- Bar Association of the United States Supreme Court
- Phi Alpha Delta Law Fraternity
- Houston Livestock Show & Rodeo
- Greater Katy Alumnae Panhellenic Association
- National Association of Professional Women