



## Bradford J. Kelley

Shareholder

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## Focus Areas

AI and Technology

Discrimination and Harassment

Wage and Hour

Leaves of Absence and Disability Accommodation

Workplace Policy Institute

## Overview

Bradford J. Kelley has a broad practice representing employers in employment anti-discrimination and wage and hour matters. He focuses on advising clients about emerging technologies, including artificial intelligence (AI), and their impact in the workplace.

Brad is an internationally recognized workplace AI authority. He advises clients on how to maximize the benefits of using AI in the workplace while minimizing potential legal and business risks. His deep background in this area provides employers with the tools and insights they need to develop, deploy, and monetize AI and other emerging technologies to bolster business operations and efficiency. In addition, he counsels clients on how to effectively navigate the compliance requirements and litigation risks associated with evolving AI laws and regulations. Brad has published numerous articles about workplace AI, including:

- **Belaboring the Algorithm: Artificial Intelligence and Labor Unions**

*Yale Journal on Regulation Bulletin*, 2024

- **Wage Against the Machine: Artificial Intelligence and the Fair Labor Standards Act**

*Stanford Law & Policy Review*, 2023

- **Filling the Void: Artificial Intelligence and Private Initiatives**

*North Carolina Journal of Law & Technology*, 2023 (co-authored with EEOC Commissioner Keith Sonderling)

- **The Promise and the Peril: Artificial Intelligence and Employment Discrimination**

*University of Miami Law Review*, 2022 (co-authored with EEOC Commissioner Keith Sonderling)

- **All Along the New Watchtower: Artificial Intelligence, Workplace Monitoring, Automation, and the National Labor Relations Act**

*Marquette Law Review*, 2023

Brad also speaks nationally on these emerging issues. He has given workplace AI lectures at Duke University School of Law, Georgetown University Law Center, University of North Carolina School of Law, and George Washington University School of Law.

Prior to joining Littler, Brad was chief counsel to Commissioner Keith Sonderling at the U.S. Equal Employment Opportunity Commission (EEOC) where he provided the commissioner with legal and policy advice on federal employment anti-discrimination laws. At the EEOC, he worked on cases, policies, and regulations under all the statutes enforced by the Commission, including Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act (ADEA), the Americans with Disabilities Act (ADA), the Equal Pay Act (EPA), the Pregnancy Discrimination Act (PDA), and the Genetic Information Nondiscrimination Act (GINA). He was also a key advisor to the commissioner regarding the EEOC's Initiative on Artificial Intelligence and Algorithmic Fairness. In this role, Brad was critical in developing, prioritizing, and implementing the Commissioner's AI agenda. During his time at the EEOC, Brad was awarded the EEOC Chair's Circle of Excellence Award for extraordinary commitment to the agency, one of the highest honors conferred within the Commission. In addition, he has been selected to serve on *Law360's* Employment Discrimination Editorial Board since 2022 and has served as an adjunct law professor teaching employment discrimination.

Before joining the EEOC, Brad was a senior policy advisor with the Wage and Hour Division (WHD) of the U.S. Department of Labor where he provided key policy and legal advice to the administrator regarding the administration, interpretation, and enforcement of the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), and wage laws affecting government contractors.

A former U.S. Army infantry and intelligence officer and Iraq War veteran, Brad also defends employers against claims under the Uniformed Services Employment and Reemployment Rights Act (USERRA), including complicated military leave issues. A leading authority on USERRA, Brad's articles on USERRA have been published in the *Penn State Law Review*, *Drexel Law Review*, *Hofstra Labor & Employment Law Journal*, and the *Military Times*.

Brad began his legal career as a clerk for a federal district judge. He graduated with Order of the Coif and *magna cum laude* honors from Louisiana State University Law Center, where he earned his law degree and a diploma in comparative law. In college, he earned a triple major and a minor and graduated with Phi Beta Kappa and *summa cum laude* honors.

## Professional and Community Affiliations

- Board Member, Law360 Employment Authority Discrimination Editorial Board, 2022-2024

## Recognition

- Recipient, Chair's Circle of Excellence Award, *EEOC*
- Order of the Coif
- Omicron Delta Kappa
- Phi Kappa Phi
- Recipient, Commendation for extensive pro bono work on behalf of veterans, *Veterans Consortium Pro Bono Program*

## Education

J.D., Louisiana State University, Paul M. Herbert Law Center, *magna cum laude*

B.A./B.A., Louisiana State University, *summa cum laude*, *Phi Beta Kappa*

## Bar Admissions

District of Columbia

Virginia

Louisiana

## Courts

U.S. Court of Appeals, District of Columbia

U.S. Court of Appeals, 4th Circuit

U.S. District Court, District of Columbia

U.S. District Court, Eastern District of Virginia

## Publications & Press

### **Contractors Must Tackle Artificial Intelligence Head on, Not Wait for Government**

*Engineering News-Record*

May 2, 2024

### **Artificial Intelligence Executive Order WHD and OFCCP Guidance Issued**

*Littler Insight*

May 1, 2024

**What Artificial Intelligence Means for the Construction Workplace**

*For Construction Pros*

April 12, 2024

**NYC's AI chatbot caught advising employers to break the law**

*International Employment Lawyer*

April 9, 2024

**Divergent Paths on Regulating Artificial Intelligence**

*Little Insight*

April 1, 2024

**AI In Accounting Raises OT Exemption Questions**

*Law360*

March 28, 2024

**How AI may make more employees eligible for overtime pay**

*Employee Benefit News*

March 21, 2024

**How Artificial Intelligence Tools Can Increase Diversity**

*Little ASAP*

March 6, 2024

**'Everyone Ignores' New York City's Workplace AI Law**

*Law360 Employment Authority*

March 1, 2024

**Build Back Botter: What Artificial Intelligence Means for the Construction Workplace**

*Little ASAP*

February 29, 2024

**Ten reasons employers should pay more attention to USERRA**

*Westlaw Today*

January 29, 2024

**Ten Reasons Employers Should Pay More Attention to USERRA**

*Little Insight*

January 16, 2024

**AI and Workplace Monitoring**

*Asian Robotics Review*

January 8, 2024

**All Along the New Watchtower: Artificial Intelligence, Workplace Monitoring, Automation, and the National Labor Relations Act**

*Marquette Law Review*

December 20, 2023

**President Biden's AI executive order will impact private entities**

*BenefitsPRO*

December 1, 2023

**NLRB General Counsel Offers Some Clarity on Responding to Union Organizing Demands for Bargaining**

*Little Insight*

November 13, 2023

**What To Know About Veterans In The Workforce**

*Law360 Employment Authority*

November 9, 2023

**Veteran Wins Lawsuit Over Lack of Disability Accommodation**

*SHRM Online*

November 8, 2023

**\$2.49 million verdict underscores expansive USERRA protections**

*Westlaw Today*

November 6, 2023

**What Employers Should Know About Biden's AI Order**

*Law360 Employment Authority*

November 3, 2023

**President Biden's sweeping executive order on AI "explicitly pro-union"**

*International Employment Lawyer*

November 2, 2023

**President Biden Issues Landmark Artificial Intelligence Executive Order**

*Little ASAP*

October 31, 2023

**Litigator Filling EEOC's Long-Vacant General Counsel Post Will Be First Blind Person in Role**

*Corporate Counsel*

October 19, 2023

**\$2.49 Million Verdict Underscores Expansive USERRA Protections**

*Little Insight*

October 10, 2023

**Why Big Law Is Further Tweaking Partner Pay**

*Law.com*

October 6, 2023

**EEOC-Initiated Lawsuits Shot Up 52% in Latest Fiscal Year**

*Corporate Counsel*

October 3, 2023

**What a Government Shutdown Means for Employers: Many Agencies Will Sharply Curtail Operations, Delaying New and Pending Cases**

*Little ASAP*

September 29, 2023

**Labor Agency Unity Makes Talking To One Like Talking To All**

*Law360 Employment Authority*

September 26, 2023

**OFCCP Preparing to Scrutinize Federal Contractors' Use of AI Hiring Tools and Other Technology-based Selection Procedures**

*Little ASAP*

September 7, 2023

**WPI Labor Day Report 2023**

*Little WPI Report*

September 5, 2023

**Little's Workplace Policy Institute Releases 2023 Labor Day Report**

*Little Press Release*

September 5, 2023

**DoD reopens unpaid military internship program to new employers**

*Westlaw Today*

September 1, 2023

**DOL Proposes to Significantly Increase the Minimum Salary Level to Qualify for the “White Collar” Overtime Exemptions**

*Littler ASAP*

August 30, 2023

**DoD Reopens Unpaid Military Internship Program to New Employers**

*Littler ASAP*

August 15, 2023

**Former EEOC Chief Counsel and AI Pro Joins Littler in Washington, D.C.**

*Littler Press Release*

July 24, 2023

**Filling the Void: Artificial Intelligence and Private Initiatives**

*24 North Carolina Journal of Law & Technology 153*

2023

**Wage Against the Machine: Artificial Intelligence and the Fair Labor Standards Act**

*34 Stanford Law & Policy Review 261*

2023

**For Whom the Leave Tolls: Short-Term Paid Military Leave and USERRA**

*127 Penn State Law Review 57*

2022

**The Sword and the Shield: The Benefits of Opinion Letters by Employment and Labor Agencies**

*86 Missouri Law Review 1171*

2022

**The Promise and the Peril: Artificial Intelligence and Employment Discrimination**

*71 University of Miami Law Review 1*

2022

**Veterans Employment Discrimination Guidance Updated**

*Military Times*

February 3, 2021

**Are Torts Getting Railroaded? Whether the Interstate Commerce Commission Termination Act (ICCTA) Preempts State Tort Claims Against Railroads**

*82 Journal of Transportation Law, Logistics and Policy 1*

2016

## Speaking Engagements

### **2024 Mid-Atlantic Regional Employer Conference**

Washington, DC

June 21, 2024

### **State of Unionization: The Intersection of Unions and Technology**

International Franchise Association 2024 Legal Symposium, Washington, DC

May 6, 2024

### **Wage and Hour Compliance for Small Businesses**

National Federation of Independent Business (NFIB)

May 1, 2024

### **How AI is Being Deployed in the Contingent Workforce Marketplace**

Risk Management and Compliance Workshop, Staffing Industry Analysts

April 16, 2024

### **What Employers Need To Know About USERRA**

March 19, 2024

### **USERRA**

Airlines for America, Washington, DC

March 18, 2024

### **Technology and Data in Your Workplace**

Stanford Deliberative Democracy Lab

March 16, 2024

### **Taking a SWOT at Artificial Intelligence**

Associated Builders and Contractors National Conference, Orlando, FL

March 15, 2024

### **Labor Regulations and Artificial Intelligence**

Piper Lecture in Labor Law (Management-Side Commentator), Chicago-Kent College of Law, Chicago, IL

March 5, 2024

### **AI Tools**

Littler IE&D Summit, Washington, DC

February 28, 2024

**Uniformed Services Employment and Reemployment Rights Act (USERRA) Overview**

U.S. Senate Committee on Health, Education, Labor and Pensions (Staff), Washington, DC  
February 15, 2024

**Artificial Intelligence Congressional Testimony**

U.S. House Committee on Education and the Workforce  
January 17, 2024

**What's AI have to do with People Analytics?**

Philadelphia People Analytics  
December 13, 2023

**Artificial Intelligence in the Workplace**

American Petroleum Labor Lawyers Association's Fall Conference, Houston, TX  
November 9, 2023

**2023 Philadelphia Regional Employer Conference**

Philadelphia, PA  
October 27, 2023

**The Promise and Peril: Artificial Intelligence in the Workplace**

Staffing Industry Analysts' Risk Management and Compliance Workshop  
October 24, 2023

**Whole of Government White Paper**

U.S. Chamber of Commerce, Washington, DC  
October 13, 2023

**2023 Florida Regional Employer Conference**

Miami, FL  
October 12, 2023

**Artificial Intelligence in the Workplace**

Client CLE  
October 5, 2023

**Safely Unlocking the Power of AI: Employment and Other Legal Risks and Best Practices**

Japan Society New York, NY  
October 4, 2023

**The Promise and the Peril of AI in the Workplace**

Department of Energy Contractor Attorneys Association Fall 2023 Conference, Washington D.C.  
September 27, 2023

**2023 Littler AI Summit**

Washington, DC  
September 21, 2023

**Emerging Technology and the Administrative State**

University of North Carolina School of Law  
January 27, 2023

**The Promise and Perils of Artificial Intelligence in the Workplace: Navigating the Legal & Ethical Issues**

Duke University School of Law  
January 25, 2023

**Responsible Data and Emerging Technologies Fireside Chat Series**

Duke University School of Law  
January 25, 2023

**The Promise and the Peril of AI in the Workplace**

Gray Matters Podcast  
December 8, 2022

**The Promise and the Peril: Artificial Intelligence and Employment Law**

AgSafe Food & Farms Conference  
October 11, 2022

**A New Frontier for the EEOC: Artificial Intelligence in the Workplace**

Fairfax Bar Association (Employment Law Section)  
July 27, 2022

**Artificial Intelligence in Employment and Hiring: Key Legal Considerations**

ALI CLE  
June 29, 2022