

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

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

Little ASAP

August 30, 2023

DoD Reopens Unpaid Military Internship Program to New Employers

Little 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 Promise and the Peril: Artificial Intelligence and Employment Discrimination

71 University of Miami Law Review 1

2022

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

86 Missouri Law Review 1171

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

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