



## Joshua B. Kirkpatrick

Shareholder

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### Focus Areas

Wage and Hour  
Discrimination and Harassment  
Unfair Competition and Trade Secrets  
Class Actions  
Staffing, Independent Contractors and Contingent Workers  
Home Health and Home Care

### Overview

Josh Kirkpatrick provides 24/7 service and pragmatic advice to clients. He represents clients in a wide range of employment and labor law matters in federal and state court in Colorado and Montana, in arbitration and mediation, and before numerous government agencies. He has litigated hundreds of cases arising under dozens of laws regulating the employment relationship, including cases involving claims of discrimination, harassment, and retaliation.

Josh has extensive litigation experience relating to state and federal wage and hour issues, including many claims that have involved attempts by plaintiffs to obtain class action or collective action treatment. His practice also focuses on consulting with a wide range of employers on wage and hour compliance, ensuring best practices, and avoiding class litigation. He is a core member of Littler's Wage and Hour practice group.

Josh has particular knowledge of legal issues involving the contingent workforce impacting companies in the staffing, recruiting, PEO, and "gig economy" industries. He is legal counsel for the National Association of Personnel Services (NAPS). He also has significant clients in the following industries:

- Financial services and "Fintech"
- Internet and technology
- Hospitality and restaurant

- Broadcasting
- Retail
- Construction

Josh frequently presents before attorneys, human resources professionals and employer organizations on:

- Wage and hour issues
- Workplace discrimination and harassment
- Contingent workforce issues
- Non-compete and trade secret litigation

Additionally, he regularly provides workforce training on various topics, including the prevention of harassment and discrimination, and proper wage and hour practices.

## Selected Matters

*Ensey v. Mini Mart, Inc.*: Montana Supreme Court decision upholding constitutionality of arbitration and fee shifting provisions in Wrongful Discharge from Employment Act.

*Robinson v. Dean Foods Co.*: Granting summary judgment to Defendant in 42 U.S.C. § 1981 race discrimination matter.

*EEOC v. Beverage Distribs. Co., LLC*: Reversing jury verdict on the basis of faulty jury instruction in ADA litigation versus EEOC.

*Dubray v. Intertribal Bison Coop.*: Upholding award of attorneys' fees to Defendant following Rule 12 dismissal of Plaintiff's tort claims.

## Professional and Community Affiliations

- Member, Colorado Bar Association
- Member, Denver Bar Association
- Member, Federal Bar Association

## Recognition

- Named, The Best Lawyers in America®, 2016-2022
- Named, America's Leading Lawyers for Business, *Chambers USA*, 2017-2020

## Education

J.D., University of Michigan Law School, 1999

B.A., University of Memphis, 1995, *summa cum laude*

## Bar Admissions

Colorado

Montana

## Publications & Press

### **Best Lawyers in America© 2022 Edition Honors More Than 240 Littler Lawyers**

*Littler Press Release*

August 19, 2021

### **Montana Releases FAQs on Vaccine Discrimination Law**

*Littler ASAP*

August 4, 2021

### **Colorado Supreme Court Finds Policies Requiring Forfeiture of Earned Vacation Unlawful**

*Littler ASAP*

June 17, 2021

### **Montana Makes Significant Changes to State Employment Laws**

*SHRM Online*

June 1, 2021

### **Littler Ranked in Chambers USA Guide 2021**

*Littler Press Release*

May 27, 2021

### **Montana Makes Significant Changes to State Employment Laws**

*Littler Insight*

May 14, 2021

### **Colorado Issues Final Rules on Equal Pay for Equal Work Act with Significant Job Posting Requirements for All Employers with Colorado Workers**

*Littler Insight*

November 13, 2020

### **Colorado Proposal Would Mandate Salary and Benefit Details in Job Ads**

*SHRM Online*

October 5, 2020

**Proposed Regulations Would Require All Employers with Colorado Presence to Post Salary Range and Benefits for Virtually All Job Openings**

*Littler Insight*

October 1, 2020

**Best Lawyers in America© 2021 Edition Honors More Than 250 Littler Lawyers**

*Littler Press Release*

August 20, 2020

**Colorado Makes Minor Revisions to COMPS Order 36 and Provides One-Month Grace Period for Posting and Notice Requirements**

*Littler ASAP*

March 19, 2020

**Significant Changes to Colorado Regulations on Wages and Working Conditions for Private Employers Take Effect March 16**

*Littler Insight*

March 11, 2020

**Best Lawyers in America© 2020 Edition Honors More Than 200 Littler Lawyers; 14 Named Lawyer of the Year**

*Littler Press Release*

August 15, 2019

**Colorado Court of Appeals Finds Vacation Forfeiture Policy Lawful**

*Littler ASAP*

July 11, 2019

**Littler Ranked in 2019 Chambers USA Guide**

*Littler Press Release*

April 25, 2019

**Cristiano Ronaldo, NDAs and how the #MeToo movement is spurring legal changes**

*LegalWeek*

November 12, 2018

**Best Lawyers in America© 2019 Edition Honors More Than 200 Littler Lawyers**

*Littler Press Release*

August 15, 2018

**Littler Ranked in 2018 Chambers USA Guide**

*Littler Press Release*

May 15, 2018

**Colorado Supreme Court Clarifies the Statute of Limitations under the Colorado Wage Act, Closing the Door on Stale Claims**

*Littler ASAP*

March 15, 2018

**The Montana Supreme Court Issues a Favorable Opinion for Employers of Seasonal Employees in “For Good Cause” State**

*Littler Insight*

December 1, 2017

**Best Lawyers in America© 2018 Edition Honors More Than 200 Littler Lawyers**

*Littler Press Release*

August 17, 2017

**Littler and Its Attorneys Receive Top Rankings in 2017 Chambers USA Guide**

*Littler Press Release*

May 26, 2017

**The Minimum Wage in 2017: A Coast-to-Coast Compliance Challenge**

*Littler Insight*

November 18, 2016

**The Best Lawyers in America© Honors More Than 180 Littler Lawyers in Its 2017 Edition**

*Littler Press Release*

August 16, 2016

**Colorado Division of Labor Issues New Guidance on "Use-It-Or-Lose-It" Vacation Policies, But Questions Remain**

*Littler ASAP*

October 20, 2015

**Littler Attorneys Recognized in the Best Lawyers in America© 2016 Edition**

*Littler Press Release*

August 18, 2015

**Colorado Supreme Court Upholds Termination of Employee for Medical Marijuana Use**

*Littler Insight*

June 15, 2015

**Wage Protection Act Makes Significant Changes to Colorado Wage and Hour Law**

*Littler Insight*

October 24, 2014

**10th Cir. Rules Forced Quit Claim Untimely, But Revives Ex-Postmaster's Retaliation Claim**

*Bloomberg BNA Daily Labor Report*

July 30, 2014

**Colorado Latest to Join U.S. DOL to Reduce Worker Misclassification**

*Littler Insight*

December 14, 2011

**DOL Launches Smartphone "App" to Track Employee Time and Compute Wages**

*Littler ASAP*

May 10, 2011

**Colorado Passes Stricter Penalties for Employers that Misclassify Independent Contractors**

*Littler Insight*

July 26, 2009

**Tenth Circuit Endorses "Fluctuating Workweek" Method of Calculating Overtime for Misclassified Salaried Employees**

*Littler Insight*

July 10, 2008

**Colorado Enacts Law Guaranteeing Employees the Right to Discuss Their Wages**

*Littler Insight*

July 7, 2008

**Josh Kirkpatrick Notes that Storms Don't Give Days off to Workers**

*Denver Post*

December 29, 2006

**Josh Kirkpatrick Discusses Minimum Wage Hike**

*Denver Post*

November 9, 2006

**Speaking Engagements**

**2021 Rocky Mountain Virtual Regional Employer Conference**

Denver, CO

October 6, 2021

**Navigating Montana's Laws Regarding Vaccination Status and Discrimination and WDEA Claims**

October 5, 2021

**Compliance Coffee Talk: Colorado's New Equal Pay Transparency Job Posting and Internal Promotion Notice Requirements**

Denver, CO

March 3, 2021

**2020 Rocky Mountain Virtual Employer**

November 18, 2020

**Hold on to Your Hat!: The 2019 Wage and Hour Litigation and Legislation Update**

2019 Rocky Mountain Employer Conference, Denver, CO

October 4, 2019

**Colorado Employment Law Update**

2019 Rocky Mountain Employer Conference, Denver, CO

October 4, 2019

**Conducting Legal Investigations in the Wake of #MeToo**

Denver, CO

April 18, 2019

**Ethical Issues - Can They Really Do That? Ethical Minefields and How to Dodge Them**

Association of Corporate Counsel 12th Annual Ethics Day for In-House Counsel

December 6, 2018

**Lessons in Risky Pay Practices in the Energy Industry**

Breakfast Briefing, Houston, TX

October 16, 2018

**Navigating Independent Contractor Compliance Under the Shifting Legal Landscape**

Rocky Mountain Employer Conference

September 21, 2018

**Employment Update- #MeToo Movement- Preventing and Responding to Sexual Harassment Claims**

Spring 2018 NGO General Counsel Forum

June 1, 2018

**Pay Equity: Public Pushes Gender Equity & Legal Battleground Moves to States**

Mile High SHRM

May 31, 2018

**Wage and Hour Class Action Avoidance: Lessons from Litigators**

2017 Littler Rocky Mountain Employer Conference

October 3, 2017

**2016 Rocky Mountain Employer Conference**

Denver, CO

September 21, 2016

**The Limits of Work Time: What is Compensable Time?**

Rocky Mountain Employer Conference

September 21, 2016

**The 2014 Rocky Mountain Employer Conference**

Denver, CO

October 30, 2014

**Romance in the Workplace and What to Do When the Valentine's Roses Die**

Denver, CO

March 21, 2013

**Converting Good Intentions into Compliance: Effective Pay Practices**

Littler Mendelson, Scottsdale, AZ

May 11, 2012

**Wage & Hour Trends**

Denver, CO

August 26, 2010