



## Russell W. Gray

Shareholder

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Russell W. Gray has more than 25 years of experience representing local, regional, and national clients on a wide range of labor and employment and commercial litigation matters. He is the former managing shareholder in the Chattanooga office, and he previously served on Baker Donelson's Board of Directors.

Mr. Gray serves as a trusted advisor to clients spanning a wide variety of industries, including food and hospitality, manufacturing, and health care. His practice includes representing clients on a full range of labor and employment matters, including wage and hour, drug testing, policy manuals, covenants not to compete, response to union activity, antitrust, various employment forms, compliance advice, and employment litigation.

Mr. Gray's litigation experience is extensive; he has litigated matters before courts or government agencies in approximately 20 states. He regularly defends clients against employment litigation involving class and collective actions, wage and hour, discrimination, unfair labor practice, noncompetition, nonsolicitation, and confidentiality issues. His commercial litigation experience includes cases involving antitrust, contractual matters, trade secrets, stock valuation, and real property, as well as complex, class action, and multi-district litigation. Mr. Gray has recently defended a major client in two high-profile, multi-defendant antitrust class actions alleging wage and compensation fixing of thousands of employees and independent contractors.

Mr. Gray also has notable experience representing, advising, and defending clients during investigations brought on by government agencies, including the Department of Labor (DOL), Department of Justice (DOJ), Department of Homeland Security (DHS), Equal Employment Opportunity Commission (EEOC), Occupational Safety and Health Administration (OSHA), and other state and federal agencies. He has successfully advised clients through exhaustive, multi-week and multi-year audits involving thousands of employees.

### Representative Matters

- Currently serve as liaison counsel and lead defense group counsel in a multi-defendant antitrust class action alleging wage and compensation fixing of thousands of employees arising out of alleged information sharing and benchmarking.
- Defended a major meat processor in a multi-defendant antitrust class action alleging compensation fixing of thousands of independent contractors arising out of alleged information sharing, benchmarking, and no poach agreements.
- Defended a major manufacturer in a wage and hour collective action through trial and obtained a partial jury verdict in favor of the defendant.
- Obtained settlements and court approvals for at least five wage and hour collective actions involving hundreds of employees and multiple facilities.
- Successfully represented large manufacturers in defeating union organization attempts.
- Obtained complete defense verdict in an age discrimination jury trial involving a manager at a long-term care facility.
- Obtained partial jury verdict in favor of a company in a six-week jury trial including alleged misappropriation of trade secrets.
- Represented numerous companies in responding to investigations by the Department of Labor, Department of Justice, Department of Homeland Security, Equal Employment Opportunity Commission, and other state and federal government agencies.

- Obtained summary judgment and complete dismissals for defendants in multiple discrimination cases, including age discrimination, race discrimination, and reprisal discrimination.
- Obtained favorable rulings for companies in injunction hearings pertaining to noncompetition, nonsolicitation, and confidentiality issues.
- Assisted multi-state companies develop and implement various employment policies for their locations in various states.
- Served as lead counsel for the defendant meat processor in a wage and hour collective action involving workers who claimed that they should be paid for time spent donning and doffing various gear, walking to and from the workstation, and washing themselves and their gear. The case involved more than 1,800 claimants in the original class and more than 500 claimants in an additional class. This case, which presented complex issues relating to various employee classes, was successfully settled during a multi-day mediation.
- Served as lead counsel for a meat processing company in a union campaign brought by the United Food and Commercial Workers Union (UFCW). The election involved the UFCW trying to organize over 500 workers at the client's plant near Cincinnati, Ohio, which operates three shifts and employs over 600 workers. The parties campaigned intensively for weeks in the election, with the final vote tally 302 to 178 in favor of the client. The campaign also involved Baker Donelson successfully defending and resolving nine unfair labor practice charges on the client's behalf.
- Successfully defended a distribution company client against claims by employees alleging that the client employer improperly classified them as exempt from the federal overtime law requirement.
- Successfully represented and advised a manufacturer in an exhaustive, two-year audit by the Department of Labor (DOL). The audit involved up to four DOL investigators being on site at the company for weeks interviewing employees and reviewing documents regarding payroll and time-tracking issues. Defense of the matter included arguing the company's positions on various issues such as exempt/nonexempt issues and time-tracking issues. The DOL ultimately decided not to seek back pay on behalf of any employees or former employees.
- Defended a national restaurant chain in lawsuit where hourly employees of a restaurant company sued to recover unpaid wages and overtime because they were allegedly forced to work "off the clock." The case was conditionally certified and settled after years of litigation.
- Defended a national restaurant chain against claims filed by restaurant managers to recover unpaid overtime alleging that they were misclassified as exempt due to the employer's policy of docking their pay for cash shortages and damaged or missing property. The case was conditionally certified and settled after years of litigation.
- Defended a poultry processor against race, national origin, and gender discrimination, retaliation, and harassment claims brought by 11 individual plaintiffs and a pattern and practice claim brought by the Equal Employment Opportunity Commission seeking to recover equitable relief, compensatory damages, and punitive damages on behalf of more than 100 class members that ultimately resulted in a favorable settlement for the client.
- Defended a meat processor in wage and hour litigation brought on behalf of more than 5,000 putative class members employed at four processing plants in three cities in Alabama. Successfully resolved through court-approved settlement.
- Defended a meat processor in wage and hour litigation brought on behalf of more than 2,000 putative class members employed at two processing plants in two cities in Georgia. Successfully resolved through court-approved settlement.



## Professional Honors & Activities

- Listed in *The Best Lawyers in America*® for Employment Law Management, Labor Law - Management, and Litigation - Labor and Employment since 2011
- Named the Best Lawyers® 2022 Employment Law - Management "Lawyer of the Year" in Chattanooga

- Named the Best Lawyers® 2019 Labor Law - Management "Lawyer of the Year" in Chattanooga
- Selected to Mid-South Super Lawyers (2011 – 2024)
- Recipient – Baker Donelson Chattanooga Pro Bono Attorney of the Year (2008)
- Recipient – Baker Donelson Chairman's Award (2020)
- Member – Chattanooga, Tennessee, American and Federal Bar Associations
- Board Member and Executive Committee Member – Chattanooga Chamber of Commerce
- Adjunct Professor – University of Tennessee at Chattanooga
- Former President – Chattanooga Bar Association's Young Lawyers Division
- Law Clerk for the Honorable R. Allan Edgar, U.S. District Judge, Eastern District of Tennessee (1993 – 1995)
- Managing Editor – *American University Law Review* (1992 – 1993)
- President – Student Government Association, University of Tennessee (1987 – 1988)
- Torchbearer – University of Tennessee (1988)



## Publications

- "Baker's Dozen – Tips and Insights on Partnering to Advance Women," *Women's Initiative Newsletter* (October 2021)
- "The Arts: A Critical Part of Coping," *Women's Initiative Newsletter* (October 2020)
- "Baker's Dozen: How Do You Take a Breath?," *Women's Initiative Newsletter* (September 2020)
- "Is the Trump Administration Signaling No Employment Protection Based on Sexual Orientation?," *McKnight's* (August 2017)
- "Comp Time: A New Day for Overtime Pay?," *McKnight's* (June 2017)
- "Ten Labor and Employment Law Danger Areas for Long-Term Care Facilities," Bloomberg BNA, Health Law Report (November 2015)
- Co-author – "The Other Brown Case: The Promise of the U.S. Constitution at Work in Chattanooga," *The Federal Lawyer* (May 2013)



## Speaking Engagements

- "Take This Job and Shove It: Hot Employment Law Issues in Long Term Care," 2016 LTC Symposium, Nashville, Tennessee (November 2016)
- "Common Employment Issues for Businesses," North Chattanooga Council Meeting (October 2014)
- Co-presenter – "The NLRB and the Non-Union Employer," Webinar (April 2014)
- Panelist – "Birds of a Feather Stick Together: A Real Life Story of a Tough Union Organization Campaign and Lessons Learned," Southern Automotive Conference, Chattanooga, Tennessee (October 2012)
- "The New World of E-Verify and Related State Law," Annual Conference of the Chattanooga Area Society for Healthcare Human Resource Administration (January 2012)
- "Information Privacy and Security Basics," Chattanooga Technology Council (November 2011)
- "Reelin' In The Year (A Year In Review)," Tennessee State Conference for the Society of Human Resources Management (September 2011)



## Webinars

- Return to Work Protocol – What Employers Need to Know (April 2020)



## Education

- American University, Washington College of Law, J.D., 1993, summa cum laude
- University of Tennessee, Knoxville, B.A., 1988, with high honors



## Admissions

- Tennessee, 1993