Karl G. Nelson

Partner

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Dallas



K?arl Nelson is a partner in Gibson Dunn's Dallas office where he is Co-Chair of the firm's ERISA Litigation practice and a member of the firm's Labor and Employment, Employee Benefits, Executive Compensation, and Class Action Litigation Practice Groups.

Karl is recognized by *Chambers USA* for his work as a Labor and Employment attorney in Texas, and he has been consistently honored since 2012 as one of *The Best Lawyers in America*® for Labor & Employment Litigation, including being named the 2019 Lawyer of the Year by *Best Lawyers* for Dallas Litigation – Labor and Employment. Karl is also ranked as among the *Lawdragon* 500 Leading Corporate Employment Lawyers. A fellow in the College of Labor and Employment Lawyers since 2015, Karl counsels and represents clients in all aspects of federal and state employment regulation, labor relations, and compensation and benefits law. He has extensive experience defending complex labor and benefit matters, including class and collective actions under the Fair Labor Standards Act, Title VII of the Civil Rights Act, the Employee Retirement Income Security Act, the Worker Adjustment and Retraining Notification Act, the Age Discrimination in Employment Act, and comparable state laws. He has successfully defended clients against a wide variety of claims including compliance with state and federal wage and hour laws; worker misclassification challenges; allegations of systemic age, race, disability and gender discrimination; "whistle-blower" retaliation; and breach of fiduciary duties under the Employee Retirement Income Security Act. He also regularly advises and represents clients in connection with trade secret, competition, and employee-raiding issues.

Karl has extensive experience representing clients before federal and state administrative agencies. He has successfully represented employers before the Department of Labor in complex wage and hour and pension benefits investigations and in Sarbanes-Oxley whistleblower retaliation cases, as well as before the EEOC in connection with charges of individual and class-wide discrimination. Karl also frequently assists clients in conducting internal investigations of high-risk and high-profile matters such as those involving alleged misconduct by senior executives and corporate officers and allegations of whistle-blowing under the Sarbanes-Oxley Act and similar laws. Given the sensitive and high-profile nature of the matters he regularly handles, Karl frequently works closely with in-house and outside resources to coordinate legal, investor relations, and media strategies and messaging.

Representative areas in which Karl practices include:

- ***Discrimination Class Actions*** – Karl has successfully represented employers in industries including retail sales, manufacturing, defense, and transportation in class actions alleging discrimination in pay, promotion opportunities, and job assignments on the basis of race, sex, age, and disability. He was a core member of the team that redefined the legal standard for class certification in the U.S. Supreme Court's watershed decision in *Dukes, et al. v. Wal-Mart Stores, Inc.*

Capabilities

Labor and Employment
Administrative Law and Regulatory Practice
Appellate and Constitutional Law
Class Actions
Consumer Protection
Crisis Management
ESG: Risk, Litigation, and Reporting
Employee Retirement Income Security Act (ERISA) Litigation
Executive Compensation and Employee Benefits
Litigation
Privacy, Cybersecurity, and Data Innovation
Tech and Innovation
Trade Secrets
Trials

Credentials

Education

Duke University - 1991 Juris Doctor
University of Wisconsin - 1987 B.A. Business Administration

Admissions

Texas Bar

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- ***Class and Collective Wage and Hour Litigation*** –Karl frequently defends large national employers in class and collective actions alleging violation of federal and state wage and hour laws, including claims for uncompensated work time, improper pay at termination, and unlawful pay and vacation practices. He has also successfully litigated challenges based on alleged misclassification of workers, application of various overtime exemptions, and "joint employer" status arising from use of contract labor.
- ***Employee Benefits Litigation*** – Karl regularly represents clients in a variety of industries, including retail, transportation, manufacturing, communications, consumer products, and defense in connection with both individual and class action claims alleging violation of fiduciary standards and other requirement of the Employee Retirement Income Security Act. He was among the first to argue successfully for dismissal at the pleading stage of fiduciary breach and self-dealing claims in connection with ERISA "stock-drop" litigation. *g., Lalonde v. Textron, Inc.*, 270 F. Supp.2d 272 (D.R.I. June 24, 2003), aff'd in part, 369 F.3d 1 (1st Cir. 2004). More recently, he has represented an array of Fortune 500 clients in disputes centering on allegations of excessive fees and other imprudent administration of 401(k) plans, actuarial equivalence claims for large defined benefit pension plans, prohibited transaction issues, and employer withdrawal liability.
- ***Worker Health and Safety –*** Karl has successfully represented clients in responding to Occupational Safety and Health Administration inspections and in challenging subsequent OSHA citations arising from alleged workplace hazards, including allegedly serious and systemic safety and health hazards tied to novel and cutting edge workplace conditions including those arising from the COVID-19 pandemic, workplace ergonomics, and employee exposure to dangerous customer conduct such as the crowd-trampling death of an employee.
- ***Administrative Proceedings and Investigations*** – Karl has represented leading corporations in industries including financial products, retail, and consumer products when responding to high profile investigations by the Department of Labor, the National Labor Relations Board, and the Equal Employment Opportunity Commission. Engagements have included leading the response to investigations by the DOL's Employee Benefit and Security Administration into health and pension plan losses resulting from the financial collapses of plan sponsors and administrators, defending employers in response to unfair labor practice charges before the National Labor Relations Board, and counseling one of the nation's largest private employers in connection with an EEOC investigation calling into question the structure of its hourly pay plan.
- ***Trade Secrets and Competition*** – Karl frequently counsels and represents employers in connection with the protection of proprietary, confidential, and trade secret information and enforcement of restrictive covenants limiting post-employment competition, solicitation, and employee raiding. He has successfully litigated such matters to final judgments for clients in a variety of industries, including building products, manufacturing, restaurants and hospitality, healthcare, insurance, and financial management.
- ***Sensitive Internal Investigations*** – Karl has represented clients across a wide variety of industries, including aviation, retail, building products, manufacturing, and hospitality, in sensitive internal investigations of possible misconduct such as employee theft of confidential information, whistle-blowing, sexual harassment, bribery, and corruption. In addition, he has led teams responding to sensitive investigations in a variety of non-employment contexts, including in response to investigations by the National Collegiate Athletic Association and to a high-profile outbreak of salmonella affecting the guests and staff of a major hotel.
- ***Statistical Workforce Analysis*** – Karl has extensive experience assisting clients with the statistical analyses that are frequently at the heart of complex employment issues, including class discrimination claims, affirmative action plan design and testing, and anticipating potential adverse impact patterns that may result from critical employment decisions. He regularly assists clients in evaluation of their pay

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and employee selection practices, including in order to respond to shareholder initiatives and market demands for increased reporting and transparency with respect to such data.

Karl regularly writes and speaks on employment, benefits, litigation, and data security topics. He has served as an adjunct instructor in Human Resource Law and co-authored a software package for human resource professionals. He is an active member of the American Bar Association's Section of Labor and Employment Law and the American Employment Law Council. Karl is a member of the State Bar of Texas and is admitted to practice before the Supreme Court of the United States and numerous federal appellate and district courts.

Karl received his law degree from Duke University School of Law in 1991, graduating with high honors, and his B.B.A. in economics and business administration from the University of Wisconsin - Eau Claire, graduating *summa cum laude* from the University Honors Program.

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