

## Kim Rives Miers

Office Managing Shareholder

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## Focus Areas

Class Action

Wage and Hour

Discrimination and Harassment

Home Health and Home Care

## Overview

Kimberly R. Miers is the Office Managing Shareholder of the firm's Austin office. She has experience in a variety of state and federal labor and employment law matters, with an emphasis on:

- Complex class and collective action litigation
- Wage and hour advice
- Workplace Investigations
- Title VII single plaintiff and class litigation
- Equal Employment Opportunity Commission negotiations and litigation
- Department of Labor matters

She regularly advises clients in all areas of employment law practices and policies, including wage and hour compliance, employee discipline and counseling and internal investigations.

Prior to joining Littler Mendelson, Kimberly was a senior employment attorney for a leading retailer. After law school, Kimberly served as law clerk to the Honorable Dixon W. Holman of the Texas Second Court of Appeals.

## Selected Matters

Among her notable successes, Kimberly has:

- Obtained multiple arbitration awards in favor of client accused of misclassifying independent contractors in mass arbitration matter
- Obtained a complete defense verdict in a FMLA retaliation lawsuit
- Obtained summary judgment in favor of an employer in an FLSA off-the-clock lawsuit and prevailed on Plaintiff's appeal to the Fifth Circuit
- Obtained a jury verdict in favor of an employer in a federal whistleblower lawsuit
- Defended a large multi-family housing corporation against allegations of misclassification and "off the clock" work by obtaining decertification of a nationwide collective action and then obtaining a jury verdict in favor of the employer
- Defended a Fortune 100 retailer against allegations of harassment and obtained a favorable settlement mid-trial
- Obtained a jury verdict in favor of an employer in a federal race discrimination lawsuit
- Defeated a plaintiff's motion for conditional certification in a nationwide wage and hour collective action lawsuit
- Defended a wage and hour collective action lawsuit brought by truck drivers in which she also defeated conditional certification, obtained summary judgment based on the Federal Motor Carrier Act exemption and prevailed on appeal
- Defended a large national retailer, waste services company, home lender, national country club services corporation and a hospital against charges that they forced nonexempt employees to work "off the clock"
- Defended an apartment locator company, national delivery services company, staffing company, homebuilder, fuel distributor, national mortgage loan provider, national home health provider, healthcare enterprise, manufacturing company, technology services company, automobile repair company, national retail services company and oil field services company against allegations of misclassification
- Obtained summary judgment in a FLSA lawsuit alleging off-the-clock work based on failure to demonstrate employer knew or should have known of alleged off-the-clock work and failure to allege the amount of alleged off-the-clock work as a matter of just and reasonable inference
- Obtained decertification in a nationwide wage and hour collective action lawsuit against a homebuilder

## Professional and Community Affiliations

- Member, American Bar Association
- Member, State Bar of Texas
- Member, Dallas Bar Association
- Member, Leadership Dallas, 2014
- Member, Dallas Regional Chamber
- Board Member, Suicide and Crisis Center of North Texas
- Board Member, Dallas Fine Arts Chamber Players
- Board Member, Dallas Kids First

## Recognition

- SMU Dedman School of Law Barristers Service Organization

- National Order of Barristers
- Recipient, Outstanding Second-Year Advocate Award, *SMU Board of Advocates*
- Named, The Best Lawyers in America®, 2022-2025

## Education

J.D., Southern Methodist University, 2003

B.S., University of Texas, Austin, 1990

## Bar Admissions

Texas

## Courts

U.S. Court of Appeals, 5th Circuit

U.S. Court of Appeals, 9th Circuit

U.S. Court of Appeals, 11th Circuit

U.S. District Court, Northern District of Texas

U.S. District Court, Eastern District of Texas

U.S. District Court, Southern District of Texas

U.S. District Court, Western District of Texas

U.S. District Court, Western District of Arkansas

U.S. District Court, Eastern District of Arkansas

## Publications & Press

### **Fifth Circuit Reverses Denial of Preliminary Injunction in Vaccine Mandate Case**

*Littler ASAP*

February 18, 2022

### **Circuit Courts Endorse Limiting Jurisdiction in FLSA Collective Actions**

*Littler ASAP*

August 23, 2021

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

*Littler Press Release*

August 19, 2021

### **More Opinion Letters Issued in Final Days of Trump Administration**

*SHRM Online*

January 25, 2021

**DOL Issues Opinion Letter Regarding Independent Contractor Status of Food Product Manufacturers' Distributors**

*Littler ASAP*

January 21, 2021

**Fifth Circuit Announces More Rigorous Standard for Certification of Collective Actions**

*Littler ASAP*

January 13, 2021

**Navigating Natural Disasters During a Pandemic – Key Considerations for Your Workforce**

*Littler Insight*

August 28, 2020

**Does Anything Good Happen After Midnight? Austin, Texas Adopts Paid Sick Leave**

*Littler ASAP*

February 16, 2018

**Labor of Law: Wage and Hour Woes. Diversity Scrutinized. Sexual Harassment Dos and Don'ts**

*Law.com*

November 30, 2017

**Which State's Wage Laws Apply When Workers Temporarily Relocate?**

*SHRM Online*

November 28, 2017

**Harvey's Destruction Will Test Employers' Pay, Leave Policies**

*The National Law Journal*

August 31, 2017

**After Hurricane Harvey, Here's What Employers Must Do**

*TLNT*

August 30, 2017

**Reparando los Daños: Las Responsabilidades del Empleador como Consecuencia del Huracán Harvey**

*Littler Insight*

August 30, 2017

**Picking Up the Pieces: Employer Responsibilities in the Aftermath of Hurricane Harvey**

*Littler Insight*

August 29, 2017

**Inclement Weather FAQs: Who Gets Pay for a Snow Day?**

*Littler Insight*

January 19, 2017

**Top Five Employment Litigation Trends**

*Texas Center for the Judiciary Civil Justice Conference*

March 2016

**Littler Obtains Complete Defense Verdict on Behalf of Lindsey Management Co., Inc. In FLSA Misclassification Suit**

*Littler Press Release*

October 2, 2014

**Federal Jury Clears Lindsey Management Co. of Alleged FLSA Violations**

*Northwest Arkansas Business Journal*

October 1, 2014

**Federal Jury Rules in Favor of Lindsey Management in Overtime Lawsuit**

*Arkansas Business*

October 1, 2014

**The New Face of Discrimination: Increasing Government Regulations and Three Practical Suggestions For How to Deal with Them**

*Inside Counsel*

May 21, 2012

**Littler Mendelson Announces the Promotion of 14 Associates to Shareholders**

*Littler Press Release*

January 3, 2011

**Why Ethics Training Is the Cheapest Insurance Policy**

*Dallas Bar Association*

September 1, 2010

**Texas Supreme Court Provides New Focus for Noncompete Contract Enforcement**

*Littler Insight*

October 24, 2006

**11th Circuit Reins in Class Action Certification Under Federal Rule of Civil Procedure 23(b)(2)**

*Littler Insight*

December 1, 2004

## Speaking Engagements

### **2024 Houston Regional Employer Conference**

Houston, TX

September 26, 2024

### **Benchmarking Settlement Techniques and Strategies**

Littler Executive Employer Conference, Phoenix, AZ

May 11, 2023

### **Transportation Roundtable**

Littler Executive Employer Conference, Phoenix, AZ

May 10, 2023

### **2023 Texas Webinar Series - Session 1**

January 19, 2023

### **Littler Austin's 2022 Holiday Season Lunch and Learn**

Austin, TX

December 9, 2022

### **2022 Houston Regional Employer Conference**

Houston, TX

October 6, 2022

### **Who Wants to Be a Lawionaire?**

Littler Executive Employer Conference

May 5, 2022

### **Emerging COVID-19 Vaccine Mandate Issues in Texas**

November 11, 2021

### **2021 Houston Employer Conference**

Houston, TX

October 26, 2021

### **Compensation Risks in an Evolving Work From Home World**

HR Houston's Gulf Coast Symposium on HR Issues

August 4, 2021

**The New Normal: Navigating Return to Work**

Austin Bar, Civil Litigation Section  
June 17, 2021

**Virtual Human Resources – Managing the Remote Workforce**

May 26, 2021

**Navigating Employment Laws and Management Challenges**

2019 St. Louis Employer Conference  
September 25, 2019

**Timely Talk About Wage and Hour Law: Applying Tests and Avoiding Pitfalls When Using a Contingent Workforce**

August 29, 2019

**2019 Wage and Hour Update: Flagging the Key Hot Spots for 2019-2020**

2019 Houston Employer Conference  
August 8, 2019

**Settlement Techniques and Strategies for Employment Matters**

Littler Executive Employer, Phoenix, AZ  
May 10, 2019

**The Federal Government is Knocking on Your Door...Now What?**

Austin, TX  
April 16, 2019

**Benchmarking Settlement Techniques and Strategies**

ACC Annual Meeting  
October 23, 2018

**Wage and Hour Mistakes Employers Still Make (and Some New Challenges)**

2018 Houston Employer Conference  
August 8, 2018

**Wage and Hour Mistakes Companies Still Make and What to Do About Them**

TAB Symposium  
July 24, 2018

**It's the Story, Stupid: Preparing Your Case for the Win – Even Before You Hire a Lawyer**

2018 Dallas Employer Conference  
July 19, 2018

**It's the Story, Stupid: Preparing Your Case for the Win – Even Before You Hire a Lawyer**

Littler Executive Employer, Phoenix, AZ

May 4, 2018

**Transportation Roundtable**

Littler Executive Employer, Phoenix, AZ

May 2, 2018

**Preventing Workplace Discrimination and Harassment**

Client Presentation

February 8, 2018

**Employment Law Update**

Client Presentation

January 17, 2018

**Preventing Workplace Discrimination and Harassment**

Client Presentation

December 21, 2017

**The Trump Administration and Employers, Year One**

Client Presentation

December 6, 2017

**Timely Talk About Wage and Hour Law: Wage and Hour Mistakes Companies Still Make and What to Do About Them**

November 29, 2017

**Employment Law Update: Recent Developments and What's Coming Next**

Austin, TX

November 9, 2017

**Ethical Issues For In House Counsel**

San Francisco, CA

July 19, 2017

**Employment Law Update**

Dallas Bar Association's Corporate Counsel Section, Dallas, TX

June 8, 2017



**Shatter the Glass Ceiling, but Beware the Shards**

Austin, TX

May 4, 2017

**Best Practices for Addressing the Evolving Nature of Discrimination, Retaliation and Harassment**

Littler webinar

December 7, 2016

**2016 Employment Law Update**

Dallas, TX

June 30, 2016

**2016 Employment Law Update**

Dallas, TX

June 8, 2016

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

May 5, 2016

**Faculty Member**

Civil Justice Conference

March 2016

**Employment Law Update**

Austin, TX

September 15, 2015

**2015 Employment Law Update**

Dallas, TX

June 11, 2015

**Anti-Discrimination, Retaliation and Harassment Training**

Client Presentation, Dallas, TX

December 2013

**Avoiding Wage and Hour Liability: How to Minimize Your Legal Risk**

Dallas, TX

October 17, 2013

**Best Practices for Handling Employee Complaints**

Client Presentation, Dallas, TX

October 16, 2013

**The New Face of Discrimination**

Labor & Employment Section - Dallas Bar Association

September 17, 2012

**2012 Employment Law Update**

Dallas, TX

June 27, 2012