

## David Klass

### *Partner*

Charlotte

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Email



### ***Service Focus***

- Litigation and Trials
- Wage and Hour
- Workplace Safety and Catastrophe Management
- Employee Defection and Trade Secrets

### ***Overview***

David Klass is a partner in the firm's Charlotte office. His practice encompasses representing employers in a variety of employment matters in state and federal courts as well as matters prosecuted by the Occupational Safety and Health Administration (OSHA) and Mine Safety and Health Administration (MSHA). David has been quoted in *SHRM*, *EHS Today*, *Bloomberg*, and other national publications regarding topics ranging from wage and hour issues to workplace safety.

Client service and responsiveness are David's top priorities. He knows that when a client calls for legal advice, the matter is serious and often urgent. David prides himself on knowing his clients' businesses and providing efficient and timely responses to their legal needs.

### **Employment Litigation**

David is a trial attorney and has tried cases in nearly every format: jury trial and bench trial, federal court and state court, administrative hearing and arbitration. Through his trial experience, David is able to frame his clients' legal arguments and guide his clients through the litigation process with an eye toward what will be successful if the case proceeds to trial.

While David's litigation practice spans all aspects of employment law, he has significant experience representing employers in collective actions under the Fair Labor Standards Act (FLSA); representing employers in discrimination, harassment, retaliation, and wrongful termination claims under Title VII, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act

(ADEA), and other federal and state anti-discrimination laws; representing clients regarding enforcement of restrictive employment covenants; and representing public employers regarding excessive force and other section 1983 claims.

### **Employment Law Advice and Counseling**

David also counsels clients on a broad spectrum of employment law issues outside of litigation. He is well-versed in assisting employers with creating and implementing employment policies, including everything from creating and revising entire employee handbooks to drafting specific policies on topics including FLSA compliance, sexual harassment, and drug and alcohol use, among many others. David additionally has drafted and advised clients regarding restrictive covenants, including non-competition, non-solicitation, and non-disclosure agreements.

David also regularly counsels employers regarding compliance with a wide-range of employment law issues, from wage and hour, to discrimination and retaliation, to restrictive covenants, to family and medical leave. Whether the issue has implications company-wide or is based upon an issue with a single employee, David can guide employers through the practical, business, and legal ramifications of specific courses of action.

### **Workplace Safety: Whistleblower, OSHA, and MSHA Practice**

In addition to his traditional trial and employment law practice, David spends a considerable amount of time dedicated to assisting employers with workplace safety matters.

The first part of David's workplace safety practice is counseling employers regarding preventive measures that can be taken to increase workplace safety and lessen the risk of accidents and injuries. This includes advising companies regarding everything from creating and implementing drug and alcohol testing policies and procedures, to compliance with Department of Transportation regulations, to creation of safety incentive programs, to compliance with specific OSHA regulations. David also can advise companies regarding how to come into compliance with ISO 45001, the new international occupational safety and health standard issued in 2018.

The second part of David's workplace safety practice is dedicated to counseling and representing companies in responding to OSHA, MSHA, and Nuclear Regulatory Commission (NRC) inquiries, inspections, and litigation, as well as defending employers from whistleblower complaints with those agencies. He routinely counsels companies regarding how to respond to and manage such inspections and inquiries to prevent any citations from being issued or enforcement actions from beginning. In the event that a citation has been issued or an enforcement action has begun, David has a depth of experience defending employers in those administrative proceedings.

### ***Recent Experience***

#### **Experience**

- Obtained summary judgment in federal district court on claims under Title VII, Section 1981, and COBRA.

- Won directed verdict in Virginia state court in Virginia Occupational and Safety and Health enforcement case.
- Obtained complete defense verdict after a bench trial before the North Carolina Occupational Safety and Health Review Commission in NCOSHA enforcement case.
- Won directed verdict during a federal jury trial in a case where the plaintiff alleged he was terminated in retaliation for complaining about perceived sexual harassment.
- Obtained summary judgment regarding a claim of same-sex sexual harassment, successfully arguing that the plaintiff had failed to present credible evidence that the alleged conduct occurred “because of” the plaintiff’s sex.
- Assisted with obtaining summary judgment regarding a retaliation claim under the Surface Transportation Assistance Act.
- Defeated motion for preliminary injunction that sought to enjoin client from soliciting the plaintiff’s alleged clients under the terms of a non-solicitation agreement.
- Helped defeat electrical hazard citation following fatality at a major university, obtaining a complete dismissal of OSHA’s claim.
- Obtained directed verdict during Virginia state court trial in a breach of contract case.
- Stewarded company through state wage and hour audit, resulting in no penalties.
- Assisted with appeal federal district court ruling that granted OSHA an unprecedented 30-day extension to its statutory six month inspection period, leading OSHA to withdraw its request.
- Won motion to dismiss in federal district court regarding section 1983 claim brought against police officer.
- Helped obtain complete dismissal of two assembly/disassembly crane OSHA citations that went to trial.
- Prevailed at trial in Virginia state court regarding claim that employee acted negligently towards customer.

## ***Credentials***

### **Education**

- J.D., 2008, Washington & Lee University School of Law
- B.A., 2005, Cornell University
- 2004, General Course, London School of Economics & Political Science

### **Bar Admissions**

- District of Columbia
- New York
- North Carolina

- Virginia

## **Court Admissions**

- U.S. Court of Appeals for the Fourth Circuit
- U.S. District Court for the Eastern District of North Carolina
- U.S. District Court for the Eastern District of Virginia
- U.S. District Court for the Middle District of North Carolina
- U.S. District Court for the Western District of North Carolina
- U.S. District Court for the Western District of Virginia
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Western District of New York

## ***Recognitions***

- *Chambers USA*, Labor & Employment (2024)

## ***Affiliations***

### **Professional Activities**

- Virginia Bar Association
- American Bar Association
- North Carolina Bar Association
- Mecklenburg County Bar Association

## ***Insights***

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NEWS

06/10/24

### **Fisher Phillips Earns Top Rankings Again as a Leading Firm in Labor and Employment Law by Chambers USA**

Edwin G. Foulke Jr., Andrew J. Sommer, Travis Vance, Kristin R.B. White, Danielle Hultenius Moore, Jocelyn Campanaro, Micah Dawson, Todd A. Fredrickson, Angelica M. Ochoa, Steven M. Bernstein, Suzanne K. Bogdan, Charles S. Caulkins, Christine E. Howard, Jeffrey E. Mandel, Cathy M. Stutin, Michael P. Elkon, Shanon R. Stevenson, Terri R. Stewart, Laurel K. Cornell, Raymond C. Haley III, Emily N. Litzinger, Todd B. Logsdon, Craig P. Siegenthaler, Megan Reese U'Sellis, Michelle I. Anderson, Edward F. Harold, Timothy H. Scott, David W. Erb, Daniel E. Farrington, Joseph W. Ambash, William E. Altman, Gregory V. Murray, Barbara Jean D'Aquila, Steven R. Cupp, Gregory D. Ballew, J. Randall Coffey, James R. Holland II, Brian J. Finucane, Melody L. Rayl, David B. Dornak, Scott M. Mahoney, Mark J. Ricciardi, Kathleen McLeod Caminiti, Rosemary S. Gousman, Michael R. Marra, David Klass, Richard A. Millisor, Clarence M. Belnavis, Todd A. Lyon, Michael P. Avila, Nan Sato, Christopher P. Stief, William D. Wright, Michael D. Carrouth, C. F. W. Manning II, Stephen C. Mitchell, J. Hagood Tighe, David S. Jones, Greg Grisham, Jeff Weintraub, Stephen J. Roppolo, Teresa Valderrama, Theresa M. Connolly, Davis C. Bae, Ralph Hua, Radhika Mehta, Suzanne Kelly Michael

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INSIGHTS

06/02/23

## **Top Workplace Law Stories You May Have Missed from May 2023**

Emily Alvarez, Alba V. Aviles, Steven M. Bernstein, Amanda M. Blair, Ted Boehm, Risa B. Boerner, Suzanne K. Bogdan, Melissa (Osipoff) Camire, Jennifer B. Carroll, Charles S. Caulkins, J. Micah Dickie, Benjamin M. Ebbink, Michael P. Elkon, Michael R. Greco, Rick Grimaldi, Rebecca Hause-Schultz, Megan L. Janes, David S. Jones, Sean Kingston, David Klass, Matthew R. Korn, Edwina C. Kye, Courtney Leyes, Jeffrey E. Mandel, John A. Mavros, Mary Grace Miller, Catharine Morisset, Joshua D. Nadreau, Karen L. Odash, Brett P. Owens, Alden J. Parker, Dean L. Petitta, Arthur L. Ramirez, Robin Repass, Christopher P. Stief, Connie Yang, Travis Vance, Alexander A. Wheatley, Kristin R.B. White

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INSIGHTS

05/22/23

## **Fisher Phillips' Win Over State OSHA Quota Plan Could Help Employers Across the Country**

J. Micah Dickie, David Klass, Travis Vance

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INSIGHTS

02/23/22

## **What Every North Carolina Employer Needs to Know About Restrictive Workplace Covenants (Part 3)**

David Klass

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INSIGHTS

02/15/22

## **What Every North Carolina Employer Needs to Know About Restrictive Workplace Covenants (Part 2)**

David Klass

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INSIGHTS

02/08/22

## **What Every North Carolina Employer Needs to Know About Restrictive Workplace Covenants (Part 1)**

David Klass

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INSIGHTS

10/04/21

## **The Top 18 Workplace Law Stories from September 2021**

Cheryl L. Behymer, Hannah Sweiss, Nicholas S. Hulse, Todd B. Logsdon, Travis Vance, David Klass, Samantha J. Monsees, Patrick W. Dennison, Steven M. Bernstein, George A. Reeves III, Ben Carney, Micah Dawson, Carola Murguia, Benjamin M. Ebbink, Phillip Simpler, Marisol Ruiz, Abby H. Putzulu, Phillip C. Bauknight, Nicole Kamm, Joshua H. Viau, Joshua D. Nadreau

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INSIGHTS

09/10/21

## 5-Step Plan for Employers After President Biden Announces Workplace Vaccine Mandates

Nicholas S. Hulse, Todd B. Logsdon, Travis Vance, David Klass, Samantha J. Monsees, Patrick W. Dennison, Steven M. Bernstein

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INSIGHTS

01/29/21

## January 2021: The Top 18 Labor And Employment Law Stories

Davis C. Bae, Risa B. Boerner, Melissa (Osipoff) Camire, J. Randall Coffey, Micah Dawson, Patrick W. Dennison, J. Micah Dickie, Benjamin M. Ebbink, Stephen R. Gee, Lonnie D. Giamela, Teresa J. Hardyman, David Klass, Matthew R. Korn, Steven M. Loewengart, Todd B. Logsdon, Richard R. Meneghello, Joshua D. Nadreau, Raymond W. Perez, Cheryl Pinarchick, John M. Polson, Robert M. Robenalt, Matthew R. Simpson, Shanon R. Stevenson, Hannah Sweiss, J. Hagood Tighe, A. Kevin Troutman, Travis Vance, Kristin R.B. White, Sheila M. Abron, Megan C. Winter

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NEWS

01/20/21

## Charlotte Partner Weighs-In on Biden's Pick to Head the Labor Department

David Klass

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