



John O. Sheller

Member

Direct Phone: 502.560.4288

Direct Fax: 502.562.0939

john.sheller@skofirm.com

Louisville

500 West Jefferson Street

2000 PNC Plaza

T: 502.333.6000

F: 502.333.6099

PRACTICES

Appellate

Labor, Employment &
Employee Benefits

INDUSTRIES

Hospitality & Alcohol

BAR & COURT ADMISSIONS

Kentucky

Indiana

Texas

U.S. Court of Appeals, 3rd
Circuit

U.S. Court of Appeals, 5th
Circuit

U.S. Court of Appeals, 6th
Circuit

U.S. Court of Appeals, 7th
Circuit

U.S. District Court, Eastern
District of Kentucky

U.S. District Court, Western
District of Kentucky

U.S. District Court, Northern
District of Indiana

U.S. District Court, Southern
District of Indiana

U.S. District Court, Northern
District of Texas

United States Supreme Court

Pro Hac Vice: Approximately
25 courts in 12 states

EDUCATION

Indiana University
(Bloomington)
1984, J.D., cum laude

Ball State University
1981, B.A., summa cum laude

John O. Sheller

John is a Member in Stoll Keenon Ogden's Louisville office and has been with the firm since 2007. He is a member of the Labor, Employment & Employee Benefits and Appellate practices. He has set various legal precedents and has been practicing labor and employment law for nearly 30 years.

John is *AV Preeminent® Peer Review Rated™* by *Martindale-Hubbell®*, is listed as a *Best Lawyer in America*, honored as a *Chambers USA* leading lawyer, Kentucky Super Lawyer and "Top Lawyer" by *Louisville Magazine* for his many legal accomplishments. He is responsible for creating binding legal precedent entitling employers to secure indemnity from other parties in harassment or retaliation cases. He has also established legal precedent holding that claim for intentional infliction of emotional distress or outrage is preempted by statute. He has prevailed in a class discrimination case brought by the federal government seeking to establish that women were categorically excluded from coal mining jobs.

John is a member of the Louisville, Kentucky, Texas and Indiana Bar associations. He gives back to the community by serving as a board member for the National Multiple Sclerosis Society, member of the Louisville Metro Animal Services Spot Board, supporting Disabled American Veterans, contributing to Sunrise Children's Services and supporting the Christian Legal Society and president of his neighborhood homeowners' association. He is also a member of the Federalist Society. Married with three grown children, John enjoys boating, tennis and chess in his spare time.

Work Highlights

Breach of Contract

SKO represented an insurance company that was being sued in the U.S. District Court for the Western District of Kentucky by a paper products manufacturer for breach of an insurance contract. The manufacturer alleged that it had proven a covered loss under an employee theft policy and the insurer disagreed and denied many elements of the claim. At the trial court level, the manufacturer willfully violated multiple discovery orders and the court dismissed the manufacturer's claims as a sanction. After the dismissal, the trial court denied the insurer's motion for fees incurred litigating the dispute. The manufacturer appealed the trial court's denial to the Sixth Circuit and the insurer cross-appealed the denial of fees. After briefing on the first appeal had concluded, the parties resolved all matters amicably. While the case did not result in an appellate decision, SKO was successful in preserving an important district court opinion levying a rare dismissal sanction for discovery misconduct.

Related Attorneys: John O. Sheller, Jeffrey A. Calabrese

Related Practices: Business Litigation, Appellate

Related Industries: Manufacturing, Insurance

Breach of Contract, Fiduciary Duty & Trade Secrets Law

SKO represented four employees of an asset management firm employees who sought new employment at a bank and were sued by the asset firm to enjoin them from working for the bank. These employees were also sued for alleged breaches of contract, fiduciary duty, trade secrets law and for other torts. The four managers countersued the asset firm, contending that their 12-month resignation notice period was, in effect, an implied and improper non-compete provision because the employer would not let them perform their regular job duties during the notice period. The Federal District Court, following trial-like evidentiary hearings after expedited discovery, permitted the four employees to work for the bank without requiring them to serve their 12-month notice period. This successful injunction phase then precipitated almost five years of litigation concerning the alleged damages sustained by the asset firm due to the alleged "raid" of the four investment managers and some of their colleagues. After SKO had the case dismissed from Federal District Court on jurisdictional grounds, the asset firm re-filed the suit in New York state court. After years of additional discovery and other motion practice, including battles over experts and their testimony, cross-motions for summary judgment were filed, and the case was poised for trial. Less than 10 days before trial, the case was dismissed with no payment by SKO clients.

Related Attorneys: John O. Sheller

Related Practices: Labor, Employment & Employee Benefits

Related Industries: Banks & Financial Services

Sexual Orientation Discrimination Claim

SKO represented a nonprofit in a suit brought by two women who claimed that they were victims of discrimination on the basis of sexual orientation. The individuals sued under Title VII of the Civil Rights Act of 1964 and the Kentucky Civil Rights Act. The nonprofit moved to dismiss the case for failure to state a claim upon which relief could be granted. The gravamen of the motion to dismiss was that the plaintiffs could not state a claim for religious discrimination without at least contending that their own religious views or practices were adversely effected in some way. The motion was vigorously opposed by plaintiffs and their advocates. The United States District Court granted the nonprofit's motion to dismiss in a published opinion that adopted SKO's argument. A panel of the United States Court of Appeals for the Sixth Circuit unanimously affirmed the dismissal on the same rationale in another published opinion. Petitions for en banc review by the full Sixth Circuit and for writ of certiorari in the United States Supreme Court were later denied.

Related Attorneys: John O. Sheller

Related Practices: Labor, Employment & Employee Benefits

Related Industries: Foundations & Nonprofits

THIS IS AN ADVERTISEMENT.

Workers' Compensation Retaliation

SKO represented a manufacturer and distributor of auto supplies that was sued for workers' compensation retaliation under the Kentucky Workers' Compensation Act, KRS Chapter 342. The United States District Court for the Western District of Kentucky entered summary judgment in favor of the manufacturer, from which the plaintiff did not appeal.

Related Attorneys: John O. Sheller

Related Practices: Business Litigation, Labor, Employment & Employee Benefits, Appellate

Related Industries: Manufacturing

Pedreira v. Ky. Baptist Homes for Children, 579 F.3d 722 (6th Cir. 2009)

Bailey v. Papa John's USA, Inc., 2006 WL 3740991, 2006 Fed.App. 0909N, C.A.6 (Ky.), December 20, 2006

Bates v. 84 Lumber Co., L.P., 205 Fed.Appx. 317, 2006 WL 2660728, 33 NDLR P 102, C.A.6 (Ky.), September 14, 2006

Wiseman v. Whayne Supply Co., 123 Fed.Appx. 699, 2005 WL 406324, 2005 Fed.App. 0134N, C.A.6 (Ky.), February 18, 2005

Phelps v. Jones Plastics, 20 Fed.Appx. 352, 2001 U.S.App. Lexis 20814, C.A.6 (Ky.), September 19, 2001

Louisville Country Club v. Kentucky Commission on Human Rights, 2000 U.S.App. Lexis 15726, C.A.6 (Ky.), June 26, 2000

Barlow v. Martin-Brower Co., 202 F.3d 267, 2000 WL 32027, C.A.6 (Ky.), January 5, 2000

Louisville Country Club v. Watts, 1999 U.S.App. Lexis 7828, C.A.6 (Ky.), April 16, 1999

Irvin v. Sheriff of Jefferson County, 1999 U.S.App. Lexis 1467, C.A.6 (Ky.), January 28, 1999

KY State District Council of Carpenters v. Wehr Constructors, 1996 U.S.App. Lexis 16893, C.A.6 (Ky.), June 12, 1996

Reed v. UAW, 945 F.2d 198, C.A.7 (In.), October 7, 1991

Com. v. Pendennis Club, Inc., 153 S.W.3d 784, 2004 WL 2623948, Ky., November 18, 2004

Degener v. Hall Contracting Corp., 27 S.W.3d 775, 2000 WL 652428, Ky., May 18, 2000

City of Frankfort v. Davenport, 2006 WL 2380792, Ky.App., August 18, 2006

Landrum v. Lindsey Wilson College, 2004 WL 362317, Ky.App., February 27, 2004

Kreate v. Disabled American Veterans, 33 S.W.3d 176, 2000 WL 1770607, Ky.App., November 22, 2000

Kentucky Truck Sales, Inc. v. Review Bd. of Indiana Dept. of Workforce Development, 725 N.E.2d 523, 2000 WL 311157, Ind.App., March 28, 2000

Kentucky Truck Sales, Inc. v. Review Bd. of Indiana Dept. of Workforce Development, 697 N.E.2d 109, 1998 WL 420649, Ind.App., July 28, 1998

Invesco v. Paas, 244 FRD 374 (W.D.Ky., 2007)

Invesco v. Johnson, 500 F.Supp.2d 701 (W.D.Ky., 2007)

Pedreira v. Kentucky Baptist Homes For Children, Inc., 2007 WL 316992, W.D.Ky., January 29, 2007

Jones v. Miller Pipeline Corp., 2005 WL 2297521, W.D.Ky., September 21, 2005

Wiseman v. Whayne Supply Co., 359 F.Supp.2d 579, 2004 WL 62498, W.D.Ky., January 12, 2004

Gibson v. Finish Line, Inc. of Delaware, 261 F.Supp.2d 785, 2003 WL 21037165, 91 Fair Empl.Prac.Cas. (BNA) 1629, W.D.Ky., April 25, 2003

Thomas v. Forest City Enterprises, 2001 U.S. Dist. Lexis, W.D.Ky., October 17, 2001

Mayes v. Comcast Cable, 2001 U.S. Dist. Lexis 24271, W.D.Ky., September 11, 2001

Pedreira v. Kentucky Baptist Homes for Children, Inc., 186 F.Supp.2d 757, 2001 WL 1775350, 86 Fair Empl.Prac.Cas. (BNA) 417, W.D.Ky., July 23, 2001

Sprolvs v. Oakwood Mobile Homes, Inc., 119 F.Supp.2d 694, 2000 WL 1683202, W.D.Ky., October 20, 2000

Sprolvs v. Oakwood Mobile Homes, Inc., 2000 WL 33975578, W.D.Ky., May 12, 2000

New Albany Concrete Service, Inc. v. Herman, 2000 WL 33975408, W.D.Ky., April 21, 2000

Mills v. American Underground Structures, Inc., 1999 WL 33756666, 1999 WL 3375668, W.D.Ky., December 02, 1999

Hart v. Metlife General Ins. Agency, Inc., 1999 WL 33756688, W.D.Ky., October 13, 1999

Barlow v. Martin-Brower Co., 1998 WL 34202237, W.D.Ky., October 22, 1998

Adkinson v. Professional Service Industries, Inc., 1998 WL 34202235, W.D.Ky., May 11, 1998

Frito-Lay v. U.S. E.E.O.C., 964 F.Supp. 236, 1997 WL 256919, W.D.Ky., May 13, 1997

Houseman v. DPI Food Products, Inc., 2005 WL 2656123, E.D.Ky., October 18, 2005

Messick v. Toyota Motor Mfg., Kentucky, Inc., 45 F.Supp.2d 578, 1999 WL 194149, 44 Fed.R.Serv.3d 229, E.D.Ky., January 25, 1999

Ritter v. Allied Products Corp., 725 F.Supp. 989, 1989 WL 146245, 50 Fair Empl.Prac.Cas. (BNA) 1149, N.D.Ind., August 07, 1989

Dittman v. Code-A-Phone Corp., 666 F.Supp. 1269, Prod.Liab.Rep. (CCH) P 11,651, N.D.Ind., August 18, 1987

Jen v. Electronic Data Systems Corp., 1993 WL 246327, E.D.Mo., June 17, 1993

Booth v. Electronic Data Systems Corp., 799 F.Supp. 1086, 1992 WL 186763, 123 Lab.Cas. P 35,743, 1992 WL 223784, D.Kan., July 02, 1992

Distinctions

Louisville Magazine Top Lawyer, Labor & Employment Law, 2012; Labor & Employment Law - Defense, 2013 and 2014

Chambers USA, Leading Lawyer for Business, Labor & Employment, 2014

AV® Preeminent™ Peer Review Rated by Martindale-Hubbell®

Listed in *Best Lawyers in America*®, Employment Law-Management, Labor and Employment Litigation, Labor Law-Management

Kentucky Super Lawyer, Employment and Labor, 2013-2014

Responsible for creating binding legal precedent entitling employers to secure indemnity from other parties in discrimination, harassment, or retaliation cases.

Successful in preserving constitutional and statutory right of private membership clubs to select their own members without adverse tax consequences.

Established legal precedent holding that claim for intentional infliction of emotional distress or outrage is preempted by statute.

Prevailed in class discrimination case brought by federal government seeking to establish that women were categorically excluded from coal mining jobs.

Succeeded in preventing ACLU and similar organizations from using courts to create judicial amendment expanding Civil Rights Acts beyond their terms.

Established legal precedent recognizing civil rights act exemption for national veterans organization.

Seminars

Aug. 19, 2011 "Human Resource Management: How a Successful Workplace Can Lead to a Successful Business," 2011 Nonprofit Conference sponsored by the Kentucky Society of CPAs and the Center for Nonprofit Excellence.

"Dealing with the Sexual Harassment Claim in Kentucky," National Education Network

"Legal Issues Arising from Workforce Reductions," Lorman Education Services

"Covenants Not To Compete," Lorman Education Services

"Update on Employment Law and Litigation Strategies," Louisville Bar Association

Publications

"Dealing with the Sexual Harassment Claims in Kentucky," National Education Network

"Legal Issues Arising from Workforce Reductions," Lorman Education Services

"Covenants Not To Compete," Lorman Education Services

"Update on Employment Law and Litigation Strategies," Louisville Bar Association

"Arbitration and Alternative Dispute Resolution," University of Louisville

Professional & Civic Activities

Louisville Bar Association

Kentucky Bar Association

Indiana Bar Association

Texas Bar Association

Federalist Society

National Multiple Sclerosis Society, board member

Louisville Metro Animal Services Spot Board, board member

Disabled American Veterans, supporter

Sunrise Children's Services, contributor

Federalist Society, member

Christian Legal Society, contributor/supporter

University of Louisville Law School, Labor Law

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