

Karen K. Cain

EMPLOYMENT LITIGATION, ARBITRATION & DISPUTE
RESOLUTION VICE CHAIR

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Karen successfully has teamed with General Counsel, Boards and Management for over twenty years to facilitate reaching goals impacted by employment laws. Karen is called on to conduct investigations of Executive Leadership, manage outcomes and sensitive internal communications, and to litigate a broad range of employment claims. She effectively and proactively addresses pre-litigation issues across a variety of industries and creatively manages litigation. Karen meaningfully engages to understand her client, the business and goal at hand, and teams with clients to develop proactive strategies for productive, effective workplaces that capitalize on strengths and limit exposure.

Karen has defended lawsuits in federal and state jurisdictions across the country, including managing the defense of nationwide EEOC investigations and class actions, as well as FCRA and FLSA class actions. She has been called upon to intervene and stop serial litigation where a particular management team has become a focal point. Karen also has extensive experience successfully defending arbitration agreements and prevailing in arbitration proceedings.

Karen's breadth of experience includes defense of claims under the following federal statutes and similar statutes in various states:

- Title VII of the Civil Rights Act
- Section 1981
- The Americans with Disabilities Act (ADA)
- The Fair Credit Reporting Act (FCRA)
- The Family and Medical Leave Act (FMLA)
- The Equal Pay Act (EPA)
- The Pregnancy Discrimination Act (PDA)
- Federal Arbitration Act (FAA)
- Fair Credit Reporting Act (FCRA)
- Workers' compensation statutes (retaliation)
- Employee Polygraph Protection Act (EPPA)

Karen also partners with clients on broad ranging day-to-day matters of employee attendance, discipline, and performance.

Capabilities

- Employment Litigation, Arbitration & Dispute Resolution
- Employment Advice & Investigations
- Labor & Employment
- Class Action & Multidistrict Litigation
- Employment Class & Collective Actions

During law school, Karen was the Managing Editor for the *Kansas Law Review* and served as an intern for Judge Earl E. O'Connor, U.S. District Court for the District of Kansas.

Education

- University of Kansas School of Law (J.D., 1995)
- University of Kansas (M.S., 1988)
- Avila University (1986)

Bar Admissions

- Kansas
- Missouri

Court Admissions

- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Tenth Circuit
- U.S. District Court, Eastern District of Missouri
- U.S. District Court, Western District of Missouri
- U.S. District Court, District of Kansas
- U.S. District Court, District of Colorado

Memberships

- Association of Workplace Investigators, Certificate Holder and Member
- Member, Kansas Bar Association, 2010-2019
- President, Labor and Employment Section, Kansas Bar Association, 2008-2009

Recognition

- Selected for Inclusion in *Best Lawyers in America*® for:
 - Litigation - Labor and Employment, 2025-2026
 - Employment Law – Management, 2023-2026
- AV Preeminent Peer Review Rating, *Martindale Hubbell*
- Ranked in *Chambers USA: America's Leading Lawyers for Business*, Labor & Employment, Missouri: Kansas City & Surrounds, 2022-2025
- Named *Best of the Bar*, *Kansas City Business Journal*, 2017-2018
- Named Top Rated Lawyer, American Lawyer and Corporate Counsel, 2013-2019
- Named Super Lawyer, Kansas and Missouri, *Super Lawyers*, 2011-2019
- Named "Litigation Star" by *Benchmark Litigation*, 2022-2026

Matters

Employment Litigation

- Prevailed on separate summary judgment motions on all claims of two improperly joined financial industry management employees after client transitioned defense of lawsuit near the close of discovery but prior to any depositions; deposed both plaintiffs, prepared leaders for depositions and defended same, and matter could not

be resolved amicably due to the parties' disparate valuation of claims.

- Prevailed on Washington state court appeal after securing summary judgment win on the eve of trial on a retaliatory termination public policy whistleblower claim in the health care industry and convinced appellate court that lower court had erred in holding that public policy was implicated in the first instance; the state supreme court declined plaintiff's petition for review.
- Prevailed on summary judgment in two separate cases that were removed to federal court in which plaintiffs separately asserted Title VII, FMLA, ADA and Washington state law claims against the same management team, fully prevailed on summary judgment on all federal claims and used Offer of Judgment to compel resolution of single plaintiff's single state law claim that was remanded following summary judgment.
- Prevailed on summary judgment in a case in which a senior male health care industry leader asserted gender-based termination alleging his termination, which followed investigation of allegations that he had engaged in inappropriate, excessive attention to a female subordinate, was the unlawful result of the me-too movement and a woman in his leadership position would not have been terminated.
- Prevailed on summary judgment in case in which manufacturing plant employee claimed violation of the ADEA and ADA, and prominent plaintiff's counsel extensively litigated case including taking depositions of multiple defense witnesses who were leaders at manufacturing plant.
- Prevailed on summary judgment in a matter where plaintiff alleged express use of racial epithet and case was evolved from one of almost two dozen administrative charges asserting race discrimination by same health care leadership team and was extensively litigated including a 30(b)(6) notice that required three conferences with the federal judge; success in matter had a critical impact on other plaintiffs and opposing counsel losing interest in pursuit of claims.
- Managed a series of racial discrimination matters in a single facility of an international medical testing company, reached company desired outcomes, and thereafter retained to conduct nationwide management training on related EEO issues.
- Prevailed on summary judgment in FMLA matter in which plaintiff misrepresented availability during discovery process to avoid timely appearing for deposition, and convinced federal court to preclude extension of the deadline to permit defense witness depositions.
- Prevailed in compelling enforcement of arbitration agreements in state and federal jurisdictions across the country for a retail client, including securing enforcement through an appeal in Missouri state court after being denied enforcement by a Jackson County trial court.
- Managed defense of multiple AAA arbitrations through full defense merits, including a sexual harassment and Section 1981 retaliation action that was over a week in duration, and received defense judgments in every matter that went through a full hearing.
- Prevailed on motion for summary judgment against lead plaintiff, which order was affirmed by Eighth Circuit, after having prevailed on motion defeating joinder of over twenty plaintiffs who asserted race discrimination claims against manufacturing leadership team, and all plaintiffs were ordered to pursue individual claims, and all claims were ultimately dismissed without payment to a single plaintiff.

Employment Advice & Investigations

- Conducted extensive C-Suite investigation of Leader conduct counter to entity values, analyzed possible legal infractions, lead strategic analysis of outcome options with a team including CEO, President, General Counsel and Senior Vice President of HR, and facilitated effectuation of decision, including planning, processing, messaging, and legal documentation.

- Retained by Board of Directors to determine the course of action following receipt of anonymous complaints alleging multiple unlawful actions by Chief Executive Officer, directed and oversaw third-party investigation, teamed with Board to consider legal implications of investigator report, managed outcome that included termination and managing threatened legal claims following termination while minimizing exposure and negotiating resolution.
- Retained by financial institution General Counsel to conduct investigation of allegations made by C-Suite executive upon the eve of retirement that CFO new to the organization had falsified financial data in regulated compliance reports, which investigation included identifying counter-productive dynamic within C-Suite and suggestions for resolving organizational issue, and client effectively avoided litigation with retired leader.
- Retained by international retail company to evaluate and advise on termination of tenured in-house litigation attorney, defended against threatened claims and negotiated resolution consistent with client goals.
- Retained by international media company to evaluate and advise on termination of General Counsel, defended against threatened claims, and negotiated resolution consistent with client goals.
- In March 2020 created a team that has since provided real-time COVID-related information to global provider of payments and financial services technology solutions by providing, on a rolling ongoing basis throughout the pandemic, real-time reports on COVID-related restrictions and mandates for cities, counties, and states in which entity employs associates, and continue to creatively problem solve and brainstorm with client on novel pandemic-related issues.

Employment Class and Collective Actions

- Manage defense of entity-wide class and collective action in which seven Nebraska nurses assert claims that all nurses employed by health system performed remote work during on-call shifts for which wages were not properly paid, which plaintiffs claim violated employer's policies, state law, and the FLSA.
- Manage defense of nationwide FLSA collective action in which a single computer analyst asserts claims that a nationwide class of analysts performed work for which the computer analysts were not properly paid overtime.
- Managed defense of FCRA action asserted as a collective action, but which was resolved as an individual action after demonstrating to opposing counsel that the employer-defendant was not engaged in conduct in violation of the FCRA.
- Managed defense of FCRA asserted as collective action in which plaintiffs argued nuanced issues with notice and acknowledgment forms, resolved matter early and consistent with client goals, and coordinated efforts with third-party claims administrator and client.
- Managed defense of EEOC nation-wide investigation of national retailer where EEOC claimant asserted claims regarding medical provider notes submitted for absences where such notes were required to – but sometimes did—include identification of medical issue, which EEOC claimed violated the ADA, and worked with EEOC To reach resolution through multiple mediation efforts.
- Managed Title VII class claims asserted by EEOC in which claimant had asserted claims of gender-based discrimination in a retail setting in which claims spanned throughout country and class included over twenty claimants with similar claims, actively litigation case with EEOC, took depositions of all claimants who participated in discovery and obtained dismissal of those who did not, and ultimately resolved matter consistent with client goals.