

## Andrea Johnson

**DIRECTOR**

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Andrea “AJ” Johnson, a director at the Firm, has been practicing in employment law and employment/commercial litigation for more than 30 years. She represents clients all over the nation, provides day-to-day advice on critical, time-sensitive business and employment matters, has tried numerous cases to successful verdict and/or to dispositive adjudication, and has arbitrated and enforced mandatory arbitration programs in several states.

AJ has a straight-forward approach. She seeks the most expedient and effective way to resolve matters and to find the best path forward for clients through prevention and training protocols, to avoid litigation entirely. She developed her approach from years of experience handling a variety of dockets in the areas of employment, general commercial, and national product liability law. In recent years, her practice has included learning about and providing advice to numerous oil and gas and energy services companies, among many other clients, on all issues touching employers and employees, such as the Fair Labor Standards Act (overtime and class action litigation), noncompetes and nonsolicitation agreements, RIFs, WARN Act issues, 409A compliance, drug screening, general employee discipline and counseling issues, policies, leave rights and responsibilities, Texas state employment concerns, and all manner of compliance under Title VII, the ADEA, the FMLA, & ADA – among many other statutes.

Due to AJ’s determined and successful approach, she has had considerable favorable results in court over the years, including successfully defending and guiding companies through numerous overtime class actions and DOL audits, winning discrimination actions of first impression, obtaining one of the largest commercial verdicts in 2013 in Texas, obtaining a summary judgement invalidating a patent, and obtaining a complete defense verdict in a \$54 million alleged slander suit in Galveston County (cited in the “Biggest Suits” section of *Texas Lawyer*).

### Practice Focus

Complex Commercial Litigation, Employment

### Honors

- AV Preeminent®, Martindale Hubbell
- Super Lawyers, Thomson Reuters (2008-2018)
- Best Lawyers in America®, U.S. News & World Report (2018 - 2019)

Top Lawyers – Labor and Employment, *Houstonia Magazine* (2016)  
Martindale “Top Rated Lawyer” in both Employment Law and Commercial Litigation  
Recognized by Texas Lawyer as lead trial counsel of one of the top commercial verdicts of 2013

### Admissions

- State Bar of Texas, 1984



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#### **LAW SCHOOL**

Loyola Law School (Loyola  
Marymount University)  
J.D., 1981

#### **UNDERGRADUATE**

University of California  
B.A., *magna cum laude*, 1978

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- United States District Courts in the Northern, Southern, Eastern and Western Districts of Texas
- State Bar of California, 1981
  - United States District Courts in the Central and Eastern Districts of California
- U.S. Supreme Court
- United States Court of Appeals for the Fifth Circuit
- United States District Court in the Western District of Oklahoma

## Associations

- Former Briefing Clerk to the Honorable Hugh Gibson, Jr. (United States District Court, Southern District of Texas), 1981-83.
- State Bar of Texas, Labor and Employment Section and Women and the Law Section
- State Bar of Texas, Women and the Law Section
- Houston Bar Association, Labor and Employment Section
- Society of Human Resource Management
- Texas Bar Foundation, Texas Bar Fellow
- Garland Walker Inn of Courts
- American Bar Association
- National Association of Women Lawyers
- Texas Women Lawyers

## Experience

### Recent Representations:

- Defended and resolved favorably a large overtime class action involving issues regarding worker classification for 200 workers/employees in an energy services company
- Defended and resolved favorably a company-wide Department of Labor audit as to overtime issues for several hundred employees in an energy services company
- Defended and resolved favorably an overtime class action involving a class of 27 workers for a Houston-based engineering services business
- Defended and resolved favorably several overtime lawsuits involving a single plaintiff or small groups of workers for energy and non-energy companies
- Defended a multinational chemical manufacturing company as to an EEOC sexual harassment claim concerning a worker at a Texas site
- Defended and successfully resolved a federal lawsuit concerning the president of an international company in regard to sexual harassment events in Texas and New York
- Defended in arbitration a Houston-based start-up entity in regard to demands for over \$500,000 in alleged sales commissions and fees
- Defended and resolved favorably an EEOC claim against a Canada-based services company as to sexual harassment allegations involving its Houston branch office
- Prosecuted a breach of contract lawsuit in state court for a Houston-based technology company
- Defended successfully a tortious interference, noncompetition, nonsolicitation lawsuit, including a temporary injunction hearing, for a Houston-based medical recruiting company
- Assisted a senior executive with an internet stalking issue
- Represented high-ranking executives in resolving several employment agreement and severance agreement issues
- Assisted a company with cease and desist actions involving noncompetition and confidentiality issues
- Provided day-to-day advice for both oil & gas/ energy services companies and many other non-energy entities, as to all issues involving employers and employees, such as the following:
  - The Fair Labor Standards Act (overtime and minimum wage issues)
  - RIFs – small and organization-wide
  - WARN Act issues

- 409A compliance
- Drafting and enforcing independent contractor contracts
- Noncompetes, confidentiality, and nonsolicitation issues
- Benefit issues
- General employee discipline and counseling issues
- Personnel handbooks (writing from scratch or revising and updating)
- Job applications
- Investigations of misconduct or complaints of harassment
- Drug screening
- Overtime compliance
- Employee compensation
- FMLA & ADA compliance
- Lawsuit avoidance as to various statutory issues including Title VII, ADA, FMLA, FLSA, etc.

## Publications

- “Classifying Workers – Contractor Versus Employee – The Who, What, Where and Why?” presented at the Houston Business (Cabinet, Houston, February 19, 2013)
- “Hiring Your First Employee or Contractor,” presented at University of Houston Small Business Development Center, Houston, (February 13, 2013)
- “The Energy Industry and Employment Law: A Match Made in Heaven?” presented at Texas Lawyer’s In-house Counsel Summit, San Antonio (September 6, 2012)
- “Whose Tweet Is It Anyway?” HR Matters eNewsletter, Texas SHRM Council (October 2012)
- “Key Facts, Critical Law: Saying Good-bye to Employees Within Legal Bounds,” Burleson Cooke Continuing Education Series (March 31, 2009)
- “Equal-pay Measures Will Ignite Litigation,” National Law Weekly (January 2009)
- “HR Strategies Q&A: Communication and Costumes,” Houston Business Journal (October 2008)
- “Terminating Employment When a Non-compete Is Involved,” Oil & Gas Financial Journal (August 2008)
- “Artful Intelligence, Tools, and Techniques for Best Lawyering,” moderator and organizer of daylong event for Texas Women Lawyers, Annual CLE Program, Houston (February 2010)
- “A Little of This and a Little of That about Employment and Discrimination Laws,” presented at U.S. Veterans Program, Houston (October 2009)
- “Social Media: The Employer’s Advantage,” presenter in panel discussion at South Texas College of Law, Employment Law Course, Houston (July 2009)
- “Cutting-Edge Employment Issues,” presented for HEB Markets, Houston (July 2009)
- “How Are We Meeting the Challenge of Diversity in These Economic Times?” moderator of panel discussion for Diversity Forum, State Bar of Texas Annual Meeting, Dallas (June 2009)
- “Changing Employment Laws and Their Effect on Women in the Workplace,” moderator and organizer of panel discussion for Women and the Law Section, State Bar of Texas Annual Meeting, CLE Program, Dallas (June 2009)
- “Securing Hiring Success: Easy Guides to Empower Business,” presented for various chemical companies of Louisiana and Texas, Galveston, Texas (May 2009)
- “Déjà Vu: Union Issues, Legislation, and Prevention,” presented for LANXESS Corporation, Orange, Texas (April 2009)
- “Key Facts, Critical Law: Saying Good-bye to Employees Within Legal Bounds,” presented at Corporate Breakfast Meeting, Burleson Cooke L.L.P., Houston (March 2009)
- “Chart Your Successful Path Forward,” moderator and organizer of panel discussion for Texas Women Lawyers Annual CLE Program, Austin, Texas (February 2009)
- “The Lawyer, Abraham Lincoln,” participant in award-winning program at Garland Walker Inn of Court, American Inns of Court, Houston (February 2009)
- “Witness Deposition Tactics: The Games People Play,” presenter in panel discussion, ALI-ABA Webcast (January 2009)
- “Current Practical Issues in the Damages Case,” presented at Advanced Employment Law Seminar, University of

- Houston, Houston and Dallas (Fall/Winter 2008-09)
- “Emerging Issue of Employee Blogging: What Every Employer Should Know,” presenter in panel discussion, ALI-ABA Webcast (November 2008)
  - “When an Employee’s Private Life Becomes Your Business: Workplace Internet & Employee Blogs,” presenter in panel discussion at Employment Law Conference, South Texas College of Law, Houston (July 2008)
  - “Growing Your Business from Start to Finish,” presented at Women’s Business Enterprise Alliance, Houston (July 2008)
  - “The Changing Demographics in Texas,” presented at Diversity Summit, 2008 Bar Leaders Conference, Spring, Texas (July 2008)
  - “Lawyers, Their Life, and Their Vision in the Diverse 21st Century,” moderator and organizer of panel discussion at Diversity Forum, State Bar of Texas Annual Meeting, Houston (June 2008)
  - “Blogs, Social Networking, and Web 2.0: Employees Use These Tools, Should Companies Have Rules?” presenter in panel discussion at American Bar Association Section of Business Law, Dallas (Spring 2008)
  - “Blogs, Technology, & the Workplace: Connecting Employment Strategies in 2008... and Beyond!” presented at 17th Annual Gulf Coast Symposium on Human Resource Issues, Houston (May 2008)
  - “Anti-Trust Orientation: Or, Is the Price Right?” presented for various chemical companies of Louisiana and Texas, Baton Rouge, Louisiana (May 2008)
  - “Securing Hiring Success: Easy Guides to Empower Business,” presented at Spring Seminar Program, Houston Bar Association, Houston (April 2008)
  - “Drafting Employment Contracts: The Three C’s and Other Issues,” presented at State Bar of Texas Advanced Employment Law Seminar, Houston (February 2008)
  - “Everything You Want to Know about Employment Law... But Were Afraid to Ask!” CLE Program presented for Chubb Group of Insurance Companies, Dallas (October 2007)
  - Roundtable participant with EEOC Commissioner Stuart Ishimaru, EEOC Offices, Houston (September 2007)
  - “The Top Ten Tools to Improve Employee Relations and Reduce Costs,” presented at University of Houston, Small Business Development Center (August 2007)
  - Moderator of panel discussion for Diversity Summit, Texas State Bar Leaders Conference, Houston (July 2007)
  - Moderator and coordinator of panel discussion for Diversity Forum, State Bar of Texas Annual Meeting, San Antonio (June 2007)
  - “Everything You Want to Know about Employment Law... But Were Afraid to Ask!” presented at Annual Meeting of Louisiana Primary Care Association, Inc., and Southwest Regional Primary Care Association [pro bono affiliation with Pfizer, Inc.], New Orleans (June 2007)
  - Moderator and organizer of Legislative Action Committee’s seminar presentation (directing discussion with three state legislators and a Rice professor of an overview of state legislation), HR Houston Luncheon, Houston (June 2007)
  - “When an Employee’s Private Life Becomes Your Own,” moderator of panel discussion at Employment Law Conference, South Texas College of Law, Houston (July 2007)
  - “Workplace Internet and Employee Blogs-Doocing (Termination Based on Internet Content),” presented at Spring Continuing Education Seminar for various chemical companies, New Orleans (April 2007)
  - “The Ten Best Ways to Protect Your Business from Employment Claims,” presented at Greater Heights Lunch and Learn Program, Houston (April 2007)
  - “Blogs, Email, & Technology: Connecting Employment Strategies in 2007... and Beyond!” organizer and moderator of in-house HR seminar for Powers & Frost, Houston (March 2007)
  - “Ensuring Litigation Readiness: Going Beyond the Standard Zubulake Analysis to Meet the Demands of the Life Sciences Industry,” presenter in panel discussion at E-Discovery & Litigation Readiness for Life Sciences, National CLE Program, New York (February 2007)
  - “Everything You Want to Know About Employment Law... But Were Afraid to Ask!” organizer and presenter of workshop at University of Houston, Small Business Development Center, Houston (February 2007)
  - “Multiple Entities,” presented at 15th Annual Advanced Employment Law Course, Texas CLE Program, Dallas (February 2007)
  - “Effective Case Management: Facilitating Claims Management Between the Insured, Carrier, and Defense Counsel,” presenter in panel discussion at 12th Annual Conference on Employment Practices Liability Insurance, New York (January 2007)



- “Workplace Internet and Employee Blogs-Doocing (Termination Based on Internet Content),” presented at University of Houston Law Foundation, Advanced Employment Law for Employers and Employment Lawyers, Dallas and Houston (November and December 2006)
- “Labor & Employment Roundtable,” presenter in panel discussion in Houston, August 2006; proceedings published in Texas Lawyer (November 2006)
- “Retaliation and Whistleblowing, The New Litigation Frontier,” organizer and moderator of Pfizer Inc.’s National Web-Conference: Strategic Legal Thinking for Not-for-Profit Executives (Spring and Fall 2006)
- “Integrating Security and Accuracy Measures into Your Document Retention Policy,” presented at E-Discovery Preparedness for the Pharmaceutical Industry, New York (March 2006)
- “Retaliation Claims – Dodging a Bullet (Did You See It Coming?) – How to Avoid Employment Retaliation Claims,” presented at Houston Bar Association, Houston (March 2006)
- “Everything You Want to Know About Employment Law... But Were Afraid to Ask!” presented at IEEE Meeting, Houston (December 2005)
- “Employment Law Update, Issues and Trends – 2005,” presented at HR Houston Quarterly Meeting, Houston (September 2005)
- “The Basics of Employment Law: A Woman’s Perspective,” presented at Annual CLE Program, Texas Women Lawyers Association, Houston (February 2005)
- “Legal Claims and the Practical Impact on Employee Relations,” presented at various Houston business seminars (2000-05)
- “Co-employment Issues: Independent Contractors, ‘Leased Employees,’ and Employees,” presented at Bayer Corporation training program, Baytown, Texas (Fall 1999)
- “Sexual Harassment: Defining, Discussing, and Dealing with the Problem,” presented at M. David Lowe Seminar, Houston (Fall 1994)
- Coauthor, “The Close Case – Handling Difficult Sexual Harassment Claims,” State Bar of Texas Advanced Employment Course (December 1994)
- “The Perils of Privileges: Asserting and Attacking the Limits on Discovery and Evidence,” presented at Houston Bar Association Seminar, Houston (September 1992)
- “Work Product and Party Communications Privileges: Recent Texas Developments,” presented at Houston Bar Association Seminar, Houston (September 1992)
- Coauthor, “Texas Work Product Rule Extended,” The Advocate (December 1991)

## Presentations

- "Current Employment Law Trends: or have you seen my crystal ball anywhere?", KRCL Litigation Seminar, February 2017
- "Understanding Overtime Today: The Basics, The Risks, and The New Regulations", KRCL Employment Seminar, November 2016

## Community

- American Bar Association
- Garland Walker Inn of Court (American Inns of Court)
- Houston Bar Association (Labor and Employment Section)
- National Association of Women Lawyers
- Society of Human Resource Management
- State Bar of Texas (Labor and Employment Section and Women & the Law Section – Treasurer, 2013; Chair, 2009-10)
- Tahirih Justice Center, Pro Bono Committee, 2015
- Texas Bar Foundation “Texas Bar Fellow”
- Texas State Bar Council of Chairs, 2009-10
- Texas Women Lawyers (nonprofit association) – President, 2010