



Cody J. Elliott

 Partner

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“Litigation can be unpleasant and frustrating. My approach is to bring empathy and understanding to the process and, when appropriate, a sense of humor. I genuinely enjoy supporting clients through the litigation process, helping them find practical solutions to messy problems, and identifying best practices for them to implement in the future.”

Cody has been in the service industry for more than 20 years: before joining Miller Nash in 2008, he spent almost eight years as a restaurant manager. As an employment attorney, he helps public and private employers resolve a wide variety of employment disputes involving Oregon’s whistleblower statutes, federal and state discrimination statutes, and constitutional issues such as free speech, due process, and equal protection. Cody regularly represents clients in arbitrations, mediations, administrative proceedings with the Oregon Bureau of Labor and Industries (BOLI), and in state and federal court. Cody has also prevailed in appeals to both the Oregon Court of Appeals and the Ninth Circuit and has experience with a broad range of matters that impact public entities, including Oregon Public Records Law, Oregon’s civil service statutes, and the Oregon Tort Claims Act.

In addition to his litigation practice, Cody also has experience conducting impartial workplace investigations into allegations of employee misconduct, discrimination, retaliation, and other confidential matters. Clients look to him to conduct efficient, well-planned factual investigations, to thoroughly and impartially analyze the evidence, to provide concise, well-written findings, and to make appropriate recommendations for improving workplace policies and procedures.

Professional Activities

- Multnomah Bar Association
 - CLE Committee, member, 2016-2019
 - past chair, 2018-2019
 - Membership Committee, member, 2010-2013
 - past chair

Education

J.D., Lewis & Clark Law School, *magna cum laude*, 2008

- Articles Editor, *Lewis & Clark Law Review*
- Outstanding Appellate Brief and Outstanding Oral Advocate, First-Year Appellate Advocacy
- Teaching Assistant, Legal Analysis and Writing
- Member, Cornelius Honor Society

B.F.A., Boston University, *magna cum laude*, theatre studies, 2000

Bar Admissions

Oregon, 2009

Court Admissions

U.S. Court of Appeals for the Ninth Circuit, 2016

U.S. District Court, District of Oregon, 2009

- Oregon State Bar, member
 - Quality of Life Committee, member, 2013-2015
- Federal Bar Association, member

Civic Activities

- Harpole Memorial Legacy Scholarship Committee, Lewis & Clark Law School, member
- St. Andrew Legal Clinic Taste For Justice
 - Planning Committee
- Susan G. Komen Oregon & SW Washington, Ambassador Board, 2015-2018
- Leukemia & Lymphoma Society, Light the Night Walk Team Captain, 2014-present

Representative Experience

Litigation

- Successfully represented public university in appeal of a tenured faculty member's dismissal for bullying and sexual harassment. The appeal was under Oregon's writ-of-review statute, and we obtained full dismissal of the appeal and affirmation of the faculty member's dismissal.
- Successfully represented trade association in declaratory judgment action to prevent the disclosure of confidential trade-secret information under the Oregon Public Records Law.
- Obtained full summary judgment in favor of public school district in a lawsuit brought by a former counseling intern who asserted various constitutional claims (equal protection, due process, and speech), religious discrimination, national origin discrimination, and public-accommodation. The lawsuit involved two successful appeals to the Ninth Circuit Court of Appeals.
- Successfully represented fire district in a civil service appeal brought by a demoted firefighter. The civil service commission initially reversed the demotion and ordered reinstatement; on appeal to the circuit court, we obtained an order remanding the matter to the commission for rehearing, resulting in the commission's upholding the fire district's decision.
- Obtained summary judgment in favor of public university in lawsuit brought by an employee seeking indemnity under the Oregon Tort Claims Act for costs that he incurred in defending a sexual harassment lawsuit. Briefed and argued the matter on appeal in the Oregon Court of Appeals, which affirmed the award of summary judgment.
- Represented public university in five-day trial in federal court involving claims of age discrimination, retaliation, and disability discrimination related to tenure-track continuation.
- Obtained summary judgment in multiple matters involving claims of age discrimination, whistleblower discrimination, federal and state disability discrimination, and constitutional claims.

Publications

- "Are Third Parties Excused From Liability for Aiding and Abetting Unlawful Employment Practices? Don't (A)bet on It . . ." Miller Nash Graham & Dunn, *News You Can Use* (May 2021)
- "LGBTQ+ Victory: Considerations for Employers After Supreme Court Holds that Title VII Prohibits Discrimination on the Basis of Sexual Orientation and Gender Identity," Miller Nash Graham & Dunn, *News You Can Use* (June 2020)
- "Is Institutional Academic Freedom on the Decline?" *Campus Legal Advisor* (July 2019)
- "Responding to a Crisis: How Human Resources Can Make Things Better, Not Worse," Associated General Contractors, *Constructor Magazine*, coauthor (June 2019)
- "Equal Pay Victory for Employees: Employers May Not Use Prior Salary to Justify a Wage Differential Between Male and Female Employees," Miller Nash Graham & Dunn, *News You Can Use* (Apr. 2018)

- “Oregon Equalizer: While Paycheck Fairness Continues to Stall in Congress, Oregon Legislature Mandates Equity in Compensation,” Miller Nash Graham & Dunn, *News You Can Use* (July 2017)
- “Isn’t One Trial Enough? Jury Award Reversed and Remanded for Insufficient Evidence of Damages in Construction Contract Claim,” Miller Nash Graham & Dunn, *News You Can Use* (Nov. 2016)
- “Everybody Out of the Pool: Ninth Circuit Determines That Only Customarily Tipped Employees May Participate in Tip-Pooling Arrangements Under Fair Labor Standards Act,” Miller Nash Graham & Dunn, *News You Can Use* (Mar. 2016)
- “Effective Use of Legal Resources Plays Significant Role in Managing Risk,” *Campus Legal Advisor* (Sept. 2015)
- “Corporate Designee Depositions Under ORCP 39 C(6): Be Prepared . . . Or Else,” Oregon State Bar Corporate Counsel Section, *Corporate Counselor* (Nov. 2011)

Presentations

- “No Major Renovations: 2020 Oregon Employment Law Update,” Miller Nash Graham & Dunn, Employment Law Seminar (Dec. 2020)
- “Icebergs Lurking Below the Surface: Best Practices for Conducting Unsinkable Workplace Investigations,” Miller Nash Graham & Dunn, Employment Law Seminar (Oct. 2019)
- “Hot Topics and Best Practices for the Shifting Landscape of Employment Law,” Associated General Contractors, AGC Summer Convention (Aug. 2019)
- “The Game is Afoot: Local, State, Federal, Union Update, Including the Equal Pay Act and Compliance,” Miller Nash Graham & Dunn, Employment Law Seminar (Nov. 2018)
- “Employment and Labor Law Update: Top 7¾ Developments in 2017 (and the First Two Months of 2018),” Oregon State Bar, Government Law: Of the People, By the People CLE Seminar (Feb. 2018)
- “It’s a Wild Ride on This Roller Coaster: Local, State, Federal, and Labor Law Updates,” Miller Nash Graham & Dunn, Employment Law Seminar (Nov. 2017)
- “Evil Spells and Fairy Tales: State, Federal, and Union Updates for 2016,” Miller Nash Graham & Dunn, Employment Law Seminar (Nov. 2016)
- “Working with Law Enforcement,” National School Boards Association, School Law Practice Seminar (Oct. 2016)
- “Theories of Discrimination, Harassment and Retaliation,” Willamette Valley Higher Education Consortium, Management Development Seminar (Dec. 2015)
- “Oregon and Federal Disability Laws,” Oregon State Bar Labor & Employment Section, Labor and Employment Law Boot Camp (Nov. 2015)
- “Another Dimension of Sight, Sound, and Mind: The Bermuda Triangle of Family Leave, Reasonable Accommodations, and Workers’ Compensation,” Miller Nash Graham & Dunn, Employment Law Seminar (Oct. 2015)
- “Real Estate Foreclosures in a Commercial Context,” Oregon Paralegal Association Debtor/Creditor Specialty Group, Quarterly Meeting (Oct. 2012)

Recognition & Honors

- Selected for inclusion as an Oregon Super Lawyers—Rising Star, 2012-2019

Personal Activities

Cody enjoys trying new restaurants, collecting wine (particularly Walla Walla syrahs), crushing escape rooms and pub trivia with his wife, and playing Magic: the Gathering and watching movies with his kids. He is an avid supporter of Tottenham Hotspur F.C. and the Denver Broncos. He also enjoys powerlifting and has a barbell squat PR of 3x1 at 395.