

# Snell & Wilmer

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## **Joseph A. Kroeger**

Partner | Tucson

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### **Main Bio**

As a former in-house counsel, Joe Kroeger brings a corporate perspective to the practice of law to best serve the needs of his clients in an effective and cost-efficient manner. His practice focuses heavily on the prevention side of employment claims and positioning problem employment situations for the best possible defense.

Joe's practice is concentrated in labor and employment. He represents employers in a variety of areas, including employment discrimination and harassment, wrongful discharge, breach of contract, misappropriation of trade secrets, non-competition/non-solicitation matters, social media, alternative dispute resolution and arbitration agreements, labor arbitrations, NLRB charges, and other related areas. Joe is also a member of the firm's Privacy and Data Security group, and has experience in issues related to the Fair Credit Reporting Act, HIPAA, the Computer Fraud and Abuse Act, employee background checks and drug testing, employer protection of intellectual property, e-discovery and other employment-related privacy issues. He has litigation experience in a variety of federal and state judicial and administrative forums, as well as class action litigation. Joe has first-chaired cases to favorable verdicts in front of both federal and state juries. He further counsels and advises employers with respect to all of the above areas.

Joe is the managing partner of the firm's Tucson office and a member of the firm's Hiring and Marketing Committees. Joe is licensed to practice in Arizona, California, Colorado and Illinois.

### **Representative Litigation**

#### ***Employment Litigation and Other Matters***

- Arbitrated labor grievance challenging termination of public transit employee
- Served as lead national counsel in national Fair Credit Reporting Act class action against financial company filed in the Northern District of Georgia
- Represented mortgage company in defending against anti-raiding lawsuit in Oregon state court
- Served as lead national counsel in Fair Credit Reporting Act class action against trucking company filed in the Northern District of Indiana
- Represented computer technology company in assertion of confidential information, non-competition and non-solicitation claims in Texas state court
- Represented national transportation company in national company-wide Department of Labor audit of hundreds of exempt classified positions and negotiated settlement agreement addressing same
- Represented 28 service industry franchisees in hybrid wage-and-hour collective and class action

- Represented national financial institution in obtaining injunctive relief in a FINRA arbitration against a former employee
- Represented national oil company in defending restrictive covenant and trade secret litigation
- Represented national mortgage company in defending against request for injunctive relief as to former group of employees, as well as eleven other claims
- Represented international aerospace company in federal court in noncompetition/nonsolicitation/confidential information litigation
- Represented financial institution in state court jury trial arising out of enforcement of loan guarantee
- Represented a national transportation company in a national class action alleging Fair Credit Reporting Act violations
- Represented national education institution in defending against a California class action alleging violations of state and federal wage-and-hour laws
- Represented a national distribution company in defending against disability discrimination and retaliation claims
- Represented a national aerospace company in a non-competition/trade secrets dispute against a former employee and his new employer
- Represented entrepreneurs in a non-competition dispute with their former employer prior to the employer filing litigation, allowing clients to form own business (and flourish) in same industry
- Represented principals of company in non-compete and government contract dispute with former employer
- Defended national aerospace company in multiple phases of a non-competition lawsuit lodged by a competitor in multiple judicial forums
- Assisted large national employer in compelling arbitration of employee's claims in a novel and procedurally complex case
- Represented large employer in defending claims of race and gender discrimination and retaliation in federal court
- Represented national broadcasting company in defending against whistleblowing claims brought by a former employee
- Represented emergency services company in defending against whistleblowing and *qui tam* allegations lodged by former employee
- Represented national insurance company in administrative and civil proceedings related to insured improperly classifying its workforce to avoid premium payments
- Represented employers in over one hundred EEOC/ACRD charge of discrimination proceedings

### ***Pro Bono Litigation***

- Represented civil rights prisoner in federal jury trial alleging deprivation of constitutional rights
- Represented client before the Ninth Circuit and overturned Board of Immigration Appeals and trial court determination that individual was not a United States citizen
- Represented client before the Arizona Court of Appeals in upholding trial court's grant of summary judgment in favor of our client finding that director's transfer of primary asset of homeowner's association was invalid and void

## Education

- Stanford Law School (J.D., 2000)
  - Lead Article Editor, Stanford Law & Policy Review
- University of Dayton (B.A., Political Science, summa cum laude, 1997)
  - Recipient of full tuition Presidential Scholarship

## Professional Memberships & Activities

- State Bar of Arizona, Labor & Employment Section
  - Executive Counsel (2014-present)
    - CLE Chair (2014-2015)
    - CLE By the Sea Chair (2016-2018)
    - Secretary (2018-present)
  - State Bar Convention Co-Chair (2013-2014)
  - CLE Committee, Tucson Lunch CLEs Chair (2011-2012)
- American Bar Association
- Pima County Bar Association
- Federal Bar Association
  - Board of Directors (2014-present)
  - Membership Chair (2015-2016)
  - Treasurer (2016-2017)
  - Vice President (2017-2018)
  - President (2018-present)
- Udall Inn of Court (2008-2013)
- American Bar Foundation, Fellow (2016-present)
- Snell & Wilmer Managing Partner, Tucson Office (2019)
- Society for Human Resource Management
- Southern Arizona Leadership Council (2019-present)

## Representative Presentations & Publications

- "Protecting Against Employee Fraud," Co-Presenter, Southern Arizona Home Builders Association (November 21, 2019)
- "Employment Issues and Changes in Employment Law," Co-Presenter, Arizona Technology Council (November 14, 2019)
- "[Business Ethics Leadership Symposium](#)," Panelist, Public Relations Society of America - Tucson Chapter (2019)
- "5 Steps to Protect IP Against Employee Theft," Co-Presenter, Arizona Technology Council (July 11, 2019)
- "[UPDATE: Court Confirms that Employers are to Provide Pay Data to EEOC by Sep. 30](#)," Author, Snell & Wilmer Labor and Employment Blog (April 26, 2019)

- "[EEOC Sets Up Deadline of Sep. 30 for Employers to Submit Pay Data](#)," Author, Snell & Wilmer Labor and Employment Law Blog (April 4, 2019)
- "[Fair Credit Reporting Act Update: Employers Within the Ninth Circuit Are Required to Provide a 'Stand-alone' Background Check Disclosure Form – Yes, Literally](#)," Co-Author, Snell & Wilmer Legal Alert (February 7, 2019)
- "[Employers Will Be Required to Utilize a New 'A Summary of Your Rights Under the Fair Credit Reporting Act' Form](#)," Co-Author, Snell & Wilmer Legal Alert (September 26, 2018)
- "[What Your Company Can Learn From the Bryan Colangelo Twitter Debacle](#)," Author, Snell & Wilmer Labor and Employment Law Blog (June 8, 2018)
- "[Salary History Bans Could Reshape Pay Negotiations](#)," Quoted, HR Magazine (February 28, 2018)
- "[Why Asking About Salary History Is Risky Anywhere](#)," Co-Author, Law360 (November 29, 2017)
- "[Harassment claim surge could run into federal budget squeeze at EEOC](#)," Quoted, USA Today (November 15, 2017)
- "The EEOC's Assault on Employer's Parental Leave Policies Continues," Author, Snell & Wilmer Labor & Employment Law Blog (September 11, 2017)
- "The 'Gig' Economy and Its Ripple Effect on Labor and Employment Law," Presenter, State Bar of Arizona CLE By the Sea Conference (July 11, 2017)
- "Employment and Labor Law: Updates and Hot Topics in 2017," Co-Presenter, State Bar of Arizona Annual Convention (June 16, 2017)
- "SHRM of Greater Tucson Annual Employment Law Update," Co-Presenter (April 18, 2017)
- "NLRB Joint Employer Theory Faces Test, As D.C. Circuit Considers Legal Arguments," Quoted, Bloomberg BNA: Daily Labor Report<sup>®</sup> (March 9, 2017)
- "[4 Changes EEOC May Face Under Trump](#)," Quoted, Law360 (January 6, 2017)
- "[Arizona Employers Must Post Minimum Wage Poster On or Before January 1, 2017](#)," Co-Author, Snell & Wilmer Legal Alert (December 30, 2016)
- "Proposition 206 and What It Means for Your Company," Presenter, Lovitt & Touche Academy (December 8, 2016)
- "Snell & Wilmer 2016 Employment Law Update," Co-Presenter (June 15, 2016)
- "[Student-Athletes Aren't Employees: Seismic change in NCAA student-athlete experience avoided](#)," Quoted, Society for Human Resource Management (SHRM), (March 11, 2016)
- "Privacy Issues in the Modern Workplace," Co-Presenter, Catalina Rotary Club (February 19, 2016)
- "[As noncompete agreement use expands, backlash grows](#)," Quoted, Computerworld (February 5, 2016)
- "New Amendments to Federal Rules of Civil Procedure and Employment Discovery Protocols," Panelist, Federal Bar Association (November 13, 2015)
- "[Are You Keeping the Records Related to Your Company's Selection Procedures? The EEOC is Watching...](#)," Author, Snell & Wilmer Workplace Word Newsletter (August 7, 2015)
- "[10 Questions in Employment Contract Disputes: Part 2](#)," Co-Author, Law360 (July 22, 2015)
- "[10 Questions In Employment Contract Disputes: Part 1](#)," Co-Author, Law360 (July 21, 2015)
- "PEDs in the Workplace: It's a Mad, Mad BYOD World," Presenter, ACI Conference (April 22, 2015)
- "The First 48 Hours: How the First Decisions You Make in a Non-Compete Dispute Determines the

Final Outcome," Presenter, State Bar of Arizona Employment & Labor Law Section CLE Lunch Meeting (March 30, 2015)

- "[Employee drug testing in the medical marijuana age](#)," Quoted, Inside Tucson Business (March 20, 2014)
- "Employee Handbooks and the NLRA: A Legal Minefield for Unsuspecting Employers," Panelist, ALERA (November 5, 2013)
- "Preventing, Combating and Defending Claims by Renegade Employees," Presenter (October 24, 2013)
- "[The Keys to a Healthy Corporate Wellness Program](#)," Co-Author, American Bar Association, Labor & Employment Section of Litigation, Vol. 11 No. 2 (Spring 2013)
- "The Worth and Worry of Workplace Wellness," Co-Presenter, Arizona State Bar Convention (June 21, 2013)
- "Insights from the NLRB and EEOC General Counsel," Panel Moderator with Lafe Solomon and David Lopez, Arizona State Bar Convention (June 21, 2013)
- "Employers Must Begin Using New Fair Credit Reporting Act Summary of Rights Form by January 1, 2013," Co-Author, Snell & Wilmer Legal Alert (September 20, 2012)
- "[The Legal Concerns Implicated By Corporate Wellness Programs](#)," Author, Snell & Wilmer Workplace Word (June 2012); JD Supra online (June 27, 2012); cited by The Huffington Post (June 29, 2012)
- "Social Media and the National Labor Relations Board," Presenter, State Bar of Arizona Employment and Labor Law Section, Tucson Lunch Educational Program (May 29, 2012)
- "How to Take a Case Before the NLRB," Eighth Edition, Chapter Editor (2011)
- "Arizona Employment Law Handbook: Independent Contractors," Co-Author (2009)

## Professional Recognition & Awards

- The Best Lawyers in America®, Employment Law - Management, Labor and Employment Litigation (2018-2020), Labor Law - Management (2020)
- Southwest Super Lawyers®, Employment Litigation: Defense (2014-2016), Rising Stars Edition (2013)
- Snell & Wilmer Mentor Award (2018)
- Snell & Wilmer Community Involvement Award (2013)
- Up and Comer, Inside Tucson Business (2012)
- Snell & Wilmer Pro Bono Award (2011)
- 40 Under 40, Arizona Daily Star (2010)

## Community Involvement

- Big Brothers Big Sisters of Southern Arizona
  - Board of Advisors (2013-present)
  - Immediate Past Chair, Board of Directors (2013)
  - Board Chair (2012)
  - Board Member of the Year (2012)

## **Other Professional Experience**

- American Business Consultants Corp., In-House Counsel/Director of Human Resources
- Fisher & Phillips LLP, Associate
- Sidley Austin LLP, Associate
- United States District Court (N.D.Ill.), Law Clerk for Hon. Suzanne Conlon

## **Bar Admissions**

- Arizona
- California
- Colorado
- Illinois

## **Court Admissions**

- Supreme Court of Arizona
- Supreme Court of California
- Supreme Court of Colorado
- United States District Court, District of Arizona
- United States District Court, Central District of California
- United States District Court, Southern District of California
- United States District Court, Northern District of Illinois
- United States Court of Appeals, Ninth Circuit