

Sharon M. O'Donnell

Shareholder

SMOdonnell@mdwccg.com

Harrisburg – 717.651.3503



Sharon is a highly experienced professional liability attorney who defends private and public entities in a wide array of education law, employment law and civil rights litigation. Her clients range from self-insured corporations, to school districts and other private and public entities insured under errors & omissions, directors & officers, professional liability and employment liability practices insurance policies.

Sharon has successfully defended some of the most high-profile school district litigation in the state of Pennsylvania. She defends school districts in due process matters brought under the Individuals with Disabilities in Education Act and related federal and state statutes where a free appropriate public education (FAPE) is typically disputed, or related educational services are challenged relating to both gifted and disabled students. She has defended clients before the Pennsylvania Department of Education and the Pennsylvania Special Education Office for Dispute Resolution.

In the arena of employment law, Sharon defends claims alleging unlawful discrimination, wrongful termination and retaliation matters involving Title VII actions, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Rehabilitation Act, and other similar federal statutes. She has also defended lawsuits brought under the Pennsylvania Whistleblower Law. She is accustomed to defending employment law clients in actions brought before the Pennsylvania Human Relations Commission, Equal Employment Opportunity Commission, and the Office of Civil Rights.

Practices

- School Leaders' Liability
- Public Entity & Civil Rights Litigation
- Employment Law

Education

- Widener University Delaware Law School (J.D., 1996)
- King's College (B.A., *magna cum laude*, 1990)

Admissions

- Pennsylvania, 1997

Honors & Awards

- Pennsylvania Super Lawyer Rising Star (2005)
- Harrisburg Style Magazine, December, 2015, "Select Lawyers," (peer rated) in Education and Employment Discrimination Law

Associations & Memberships

- American Bar Association
- Dauphin County Bar Association
- Pennsylvania Bar Association

Classes/Seminars Taught

- Education Law and related statutory and legal updates to various school districts, insurance companies and professional associations, 2005-2015
- Employment Law and related statutory and legal updates to various school districts, insurance companies and professional associations, 2005-2015
- *Pennsylvania Special Education Law Seminar*, National Business Institute, December 2, 2011
- *Lawfully Managing Student Records Without Violating Privacy Rights*, National Business Institute, June 6, 2013
- *Hot Topics in Employment Law*, Cumberland County Society for Human Resource Managers, 2002

Published Works

- "U.S. Supreme Court Pulls the Plug on DOMA and Opens the Floodgates to Litigation," *Defense Digest*, Vol. 19, No. 3, September 2013
- "A Judgment that Doesn't Bear Repeating," PBA Civil Litigation Section Newsletter, *Civil Litigation Update*, Vol. 6, No. 1, Winter, 2001
- "Plaintiff Rues Preclusive Effect of Workers' Compensation Decision in Third Party Tort Action," *Defense Digest*, June Vol. 6, No. 3, 2000
- "Pennsylvania Bar Claims for Sexual Assault Where Repressed Memory Delays Commencement of Suit," *Pennsylvania Bar Association Quarterly*, Vol. 69, No. 4, Oct., 1998
- "Repressed Memory of Sexual Assault Does Not Trigger Discovery Rule," *Pittsburgh Legal Journal*, Vol. 123, No. 223 Daily Ed., Nov. 25, 1997

Media Commentary

- *The School I Deserve*, by Jo Napolitano, 2021. Sharon was interviewed and quoted in this book regarding her representation of the subject matter school district.

Significant Representative Matters

- Summary judgment on behalf of an art store chain in a racial discrimination suit over a caricature drawing of a Black woman and her infant son. She, her father and father's girlfriend, all visitors of a major Pennsylvania theme park, sued the owner of a park kiosk for race discrimination, retaliation and interference under 42 U.S.C. Section 1981, alleging that they were drawn with exaggerated and offensive features rooted in harmful racial stereotypes. They also alleged they were kicked out of the park. The

kiosk owner argued that while the caricatures might have been poorly drawn, they were not drawn in any manner intended to be offensive, and while they were happy to see the angry father leave their kiosk, the family was not kicked out of the park. The Judge determined on summary judgment that no reasonable jury could find in favor of the plaintiffs on all three claims and dismissed the action.

- Defense Verdict: Alleged racial discrimination case brought by a former African American seventh grade mathematics teacher for a suburban Philadelphia school district, who, although tenured, was informed by his union president that he could be terminated after two unsatisfactory performance evaluations. Having already received one, and with one likely on the way, he chose to resign. Three months thereafter he read his own name in the local newspaper amongst various racial slurs that had been exchanged between the former superintendent of the school district and its athletic director. A jury found that his separation from his employment was not based upon his race.
- Defense verdict in favor of public school, administrators and professional staff alleged to have violated civil rights of freedom of speech, written expression and religious expression of students by disciplining them, up to and including expulsion, for protesting a dress code policy.
- Directed verdict in favor of a public school board sued by a former member, represented by ACLU attorneys, on a theory of a First Amendment violation of free speech, among other claims, which were voluntarily abandoned prior to trial.
- Defense verdict by a federal jury in favor of a local college in an alleged unlawful retaliation claim where all alleged Title VII race discrimination claims were voluntarily abandoned on the eve of trial.
- Defense verdict by a county jury in favor of a credit collection agency alleged to have unlawfully withheld salary and commission to a former executive.
- Defense verdict on ten separate counts of alleged unlawful gender discrimination by a federal jury in a three-week trial.
- Defense verdict by county jury in favor of a medical professional by a former patient who alleged negligence in performing bilateral reduction mammoplasties.
- Summary judgment in a professional negligence action brought against a psychologist alleged to have breached the standard of care when she dated and married the husband of a client within two years of providing the last client service.
- Summary judgment on various claims, including 42 U.S.C. 1983, brought in a complex federal court action under the Americans with Disabilities Act against a county District Attorney and his professional staff in which exemplary and significant compensatory damages were sought, resulting in an overall satisfactory outcome.
- Summary judgment for a defendant general practice physician who provided medical care to a prison inmate who alleged First, Fourth, Fifth, Eighth, and Fourteenth Amendment violations against the facility and its medical staff.
- Summary judgment on behalf of a defendant breast surgeon alleged to have breached the standard of care in performing and following bilateral TRAM flap reconstruction procedures following bilateral mastectomies.
- Summary judgment for employer of supervisor-employee who sent text-message with racial epithets to subordinate of color in demonstrating that internal investigation and corrective measures were sufficient to eradicate perception of a racially hostile work environment.
- Mediation resulting in a \$250,000 settlement in a professional liability action against an architect alleged to have breached the standard of care where over \$1 million in damages were sought for the repair and reconstruction of a commercial property.
- Mediation resulting in a \$50,000 settlement in an action against an acute care facility and anesthesiologist involving alleged wrongful termination of a nurse anesthetist

whose wage loss claim alone was \$250,000.

- Mediation resulting in a settlement under six figures in an alleged race discrimination and unlawful retaliation claim brought by a former assistant superintendent of a school district in which the claimed damages, including attorneys fees, exceeded \$1 million.

Results

Summary Judgment Achieved in Racial Discrimination Suit

We achieved summary judgment on behalf of an art store chain in a racial discrimination suit over a caricature drawing of a Black woman and her infant son. She, her father and her father's girlfriend, all visitors of HersheyPark, sued the owner of the kiosk for race discrimination, retaliation and interference under 42 U.S.C. Section 1981, alleging that they were drawn with exaggerated and offensive features rooted in harmful racial stereotypes. The kiosk owner argued that while the caricatures might have been poorly drawn, they were not drawn in any manner intended to be offensive. Judge Bloom determined on summary judgment that no reasonable jury could find in favor of the plaintiffs on all three claims and dismissed the action.

Defense Verdict for School District

We obtained a defense verdict after a one-week trial in the U.S. District Court for the Eastern District of Pennsylvania. The case involved alleged race, gender and/or "intersectional" (race and gender) discrimination claims by two women against a Philadelphia area school district.

Thought Leadership

November 18, 2021

OSHA's New Emergency Temporary Standard Suspended for Now

November 11, 2021

COVID-19 Update: New OSHA Regulatory Standard Mandating COVID-19 Vaccinations for Large Employers