



Kara H. Herrnstein

Senior Associate



Kara Herrnstein is an experienced energy attorney focusing on facilitating renewable generation in Ohio. She provides legal assistance and problem-solving to developers at every stage of their projects, from land access to permitting to operation. Her practice also includes litigation on behalf of a variety of energy companies including producers and midstream companies. In everything, she is a passionate about helping her clients build Ohio into a major energy-producing state.

Prior to joining the firm, Kara served as a law clerk to the Hon. Alan E. Norris on the United States Sixth Circuit Court of Appeals and as a staff attorney at the Eleventh Circuit Court of Appeals in Atlanta, Georgia. She also served as a law clerk to the Hon. Michael H. Watson on the United States District Court for the Southern District of Ohio.

Bar Admissions & Activities

- Admitted, State of Ohio, 2011

Education

- The Ohio State University (J.D., *magna cum laude*, 2011), Order of the Coif; Managing Editor, *Ohio State Law Journal*; Michael E. Moritz Leadership Award and Leadership Scholarship
- University of Akron (B.A., *summa cum laude*, 2008)

Awards & Recognition

- Listed, *Best Lawyers in America* (Commercial Litigation), 2021–2022
- Member, The Institute for Energy Law (IEL) 2020 Leadership Class
- Rising Star, *Ohio Super Lawyers* (Business Litigation), 2018, 2020-2021

Presentations & Published Works

- Presenter, "Let the Sun Shine in Ohio," Women's Energy Network (WEN) Ohio webinar, April 2021
- Presenter, "Appalachian Solar Regulation," Energy and Mineral Law Foundation Special Institute on Solar, January 2021

CONTACT INFORMATION

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INDUSTRIES & PRACTICES

Oil & Gas
Energy
Insurance
Banking & Financial Services
Litigation



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- Speaker, "An Introduction to Solar and Wind Energy Development in Ohio," Ohio State Bar Association 28th Annual Bradley J. Schaeffer 35th Real Property Institute Seminar, December 2020
- Speaker, "An Introduction to Solar and Wind Energy Development in Ohio," Ohio State Bar Association 2020 Oil and Gas Update, November 2020
- Presenter, "Title Issues in the Plays," Institute for Energy Law Law of Shale Plays Conference, September 2020
- Speaker, "Unlicensed Landmen and Ethical Issues," Ohio State Bar Association's 2018 Oil and Gas Update, November 2018
- Speaker, "FERC Pipeline Update," Bricker & Eckler LLP's Energy Exchange: A Statehouse Update, October 19, 2017

Professional & Community Activities

- Board of Trustees Member, Energy & Mineral Law Foundation
- Officer, Institute for Energy Law's Alternative and Renewable Energy Practice Committee
- Board Member, Women's Energy Network
- Member, Bricker & Eckler Diversity & Inclusion Committee
- Co-Chair, Bricker & Eckler Women in Networking (WIN) group

Experience

Landmark court decision ends "eviction by affidavit" practice

Bricker lawyers successfully filed an amicus curiae brief to highlight and end the dehumanizing and negative ramifications of a decades-old "eviction by affidavit" practice on behalf of a number of organizations that serve vulnerable and underserved populations. For more details, please view Bricker's recap of the case.

Oil and gas transactions and disputes

Provide Ohio-specific legal counsel to Gulfport Energy Corporation on a variety of transactional and litigation matters primarily involving title issues and oil and gas lease disputes, including several appeals.



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Negotiation of a \$1 billion electricity supply contract

The Northeast Ohio Public Energy Council (NOPEC) is the largest public retail energy aggregation in Ohio, serving about 900,000 electric and gas customers across 14 counties. NOPEC's electric supplier abruptly notified NOPEC that it was terminating its contract, thus leaving NOPEC's nearly half-million electric customers to return to utility service at higher rates. Bricker attorneys sprang into action to prevent NOPEC's customers from paying these increased rates. The team negotiated a new complex electricity supply contract with NOPEC's replacement supplier (worth approximately \$1 billion); and, within 10 days, our client had signed a new three-year contract. With our assistance, NOPEC obtained two waivers from the PUCO to meet the expedited enrollment timeline. Meanwhile, within two weeks, our litigation team settled a TRO and injunction case involving the original supplier, which resulted in a multi-million-dollar settlement payment to NOPEC. In addition, our energy litigation team dissolved an ex parte TRO issued against NOPEC to a competitor regarding the NOPEC customer enrollment process. We also obtained a complete dismissal of the competitor's lawsuit on the basis that the PUCO had exclusive jurisdiction over the matter.

Amicus in support of HHS interpretive rule

Prepared an amicus brief on behalf of the American Hospital Association in support of the U.S. Department of Health and Human Services (HHS) interpretive rule providing guidance on the scope of the exclusion of orphan drugs from 340B discounts.

False Claims Act defense

Successfully defended, through appeal to the United States Court of Appeals for the Sixth Circuit, a qui tam action brought under the False Claims Act on behalf of a hospital system who was alleged to have violated the Health Information Technology for Economic and Clinical Health (HITECH) Act by improperly certifying its compliance with the HITECH Act in exchange for receiving meaningful use payments.

DMA amicus briefs

Filed amicus briefs on behalf of oil and gas clients in various Ohio appellate courts regarding the Ohio Dormant Minerals Act, including the Ohio Supreme Court.

Ohio Dormant Minerals Act appeals

Represented oil and gas clients in various Ohio appellate courts, including the Ohio Supreme Court and various intermediate appellate courts regarding Ohio Dormant Minerals Act appeals.

Interference with business opportunity claim by physician group

Defended hospital in lawsuit brought by physician group seeking to recover \$8 million in lost future profits due to alleged interference with physician group's business relationship with referring physicians and patients.