

# TRAILBLAZERS

## EMPLOYMENT LAW

### MICHAEL W. JOHNSTON KING & SPALDING LLP



**PIONEER SPIRIT** After attending the U.S. Air Force Academy and going on active duty, Michael W. Johnston served as a JAG officer prosecuting cases involving espionage, murder and sexual assault. When the Air Force built a trial team to defend claims of discrimination and harassment by civilian employees, he volunteered despite his lack of knowledge in the area. "They sent me back to school to get an LL.M. in labor and employment law, and I spent the next three and a half years on that trial team."

**TRAILS BLAZED** Johnston successfully represented a major U.S. retailer in a federal lawsuit filed by the Equal Employment Opportunity Commission in Texas alleging employment discrimination based on race. In challenging the analytical framework, Johnston compelled the EEOC to withdraw the allegation. "We argued that the EEOC is subject to the manageability requirements of any type of litigation. Because the EEOC never has to show how they can try a case that big, we put them in a difficult situation." In another case against the EEOC, an Emory University professor brought a suit alleging he was refused tenure for discriminatory and retaliatory reasons under Title VII and in breach of an employment contract under state law. Johnston obtained summary judgment on all claims. His work in both cases has continued to have implications for institutions in making tenure decisions. "These successes have been the result of a team effort. I have been blessed with the opportunity to work with outstanding lawyers throughout my career and they deserve most of the credit for anything I have done," Johnston said.

**FUTURE EXPLORATIONS** Johnston predicts further litigation related to gender harassment that will expand into other groups. "The current focus is on sexual harassment, but it should and will carry over into race, age and other protected categories." Johnston also sees increased use of technology in trial law.