



## CLAYTON J. KAISER

PARTNER

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## PROFILE

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Clayton Kaiser is a member of Foulston's healthcare practice group and head of the firm's appellate law team. Clayton focuses on successfully representing clients both inside and outside the healthcare industry in a wide range of legal matters. His experience includes enforcement of employment agreements, contract disputes, challenges to corporate reorganizations, and tort actions. Drawing upon his experience before entering private practice, Clayton also advises and guides clients through federal, state, and private insurance investigations and audits.

Prior to joining Foulston, Clayton served as a law clerk to Judge Consuelo M. Callahan of the United States Court of Appeals for the Ninth Circuit and Judge Eric F. Melgren of the United States District Court for the District of Kansas, which provided him with front-line insight into the operations of the federal courts. Clayton uses this knowledge to craft creative strategies and arguments that put his clients in a strong position to resolve their disputes timely and effectively.

In addition to this time with the federal judiciary, Clayton was privileged to serve more than four years in the United States Air Force Judge Advocate General's (JAG) Corps. While on active duty, Clayton acquired substantial trial experience through litigation of more than 30 courts-martial, many of which involved serious felony-level offenses. He additionally acted as a legal advisor to the Criminal Investigation Task Force, a multi-service organization responsible for investigating acts of terrorism and related offenses against United States personnel or interests.

Outside his legal practice, Clayton and his wife stay busy following and shuttling their eight children to various activities in and around Wichita.

## Education

- The University of Michigan Law School (J.D., *magna cum laude*, 2009)  
Order of the Coif; Articles Editor, The Michigan Journal of International Law
- Benedictine College (B.A. in Political Science, Minor in Economics and Business Administration, *summa cum laude*, 2006)

## Admissions

# FOULSTON

## ATTORNEYS AT LAW

- U.S. Court of Appeals for the Tenth Circuit
- U.S. District Court for the District of Kansas
- Kansas (2009)

### PRACTICE AREAS

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- Healthcare
- Litigation & Disputes
- Government Investigations & White Collar Crime
- Trade Secret & Noncompete Litigation
- Appellate Law

### INDUSTRIES

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- Healthcare

### RELEVANT EXPERIENCE

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- Successfully defended the State of Kansas' 2022 congressional district map against constitutional challenge
- On appeal, obtained from the Tenth Circuit reversal and vacation of an unfavorable district court judgment, and, on remand, prevailed before the district court in the breach of contract case
- On appeal, obtained reversal of unfavorable Kansas Judicial Review Act opinion by the Kansas Court of Appeals
- On appeal, obtained reversal of unfavorable land partition order by the Kansas Court of Appeals
- Secured defense verdict in breach of contract case involving a real estate lease worth tens of millions of dollars following a week-long arbitration
- Secured dismissal of restrictive covenant case where injunctive relief was sought following three-day hearing
- Secured dismissal of action against state actor in which plaintiff was seeking declaratory, injunctive, and monetary relief based on alleged violations of the United States and Kansas Constitutions and the parties' underlying contract at the motion to dismiss stage
- Secured dismissal of breach of contract, breach of the duty of good faith and fair dealing, tortious interference with a contract, and tortious interference with a prospective business relationship lawsuit against a medical practice group at the motion to dismiss stage
- Secured voluntary dismissal of False Claims Act ("FCA") qui tam lawsuit filed against physician practice group following the filing of a motion to dismiss
- Defeated federal lawsuit brought by former employee seeking to have their restrictive covenants invalidated, injunctive relief granted, and monetary damages awarded
- Secured injunctive relief for physician preventing hospital from taking further adverse actions against the physician

# FOULSTON

## ATTORNEYS AT LAW

- Obtained dismissal of Racketeer Influenced and Corrupt Organizations (“RICO”) claim filed against medical device manufacturer
- Obtained dismissal of individual board members from lawsuit challenging the actions taken by the board of a Kansas corporation at the motion to dismiss stage
- Represented hospital in multi-year Department of Justice (“DOJ”) and Health and Human Services (“HHS”) meaningful use investigation in which a favorable resolution was secured
- Represented party in multi-year state law enforcement investigation in which a favorable resolution was secured
- Represented part manufacturer in multi-year DOJ fraud investigation in which a favorable resolution was secured
- Represented professional organization in multi-year DOJ kickback investigation in which a favorable resolution was secured

### PROFESSIONAL MEMBERSHIPS, AFFILIATIONS, AND HONORS

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- Selected by peers for inclusion in *Best Lawyers: Ones to Watch®* in the areas of Commercial Litigation, Criminal Defense: White-Collar, and Health Care Law, 2021-2024; and Appellate Practice, 2023-2024
- Named to “40 & Under List” by Benchmark Litigation, 2021-2022
- Wichita Business Journal 40 Under 40 Honoree, 2021
- National Diocesan Attorneys Association
- American Health Lawyers Association
- Kansas Bar Association
- Wichita Bar Association
- Federalist Society
- Catholic Assembly of Business
- Joint Service Commendation Medal
- Air Force Commendation Medal with Oak Leaf Cluster
- Distinguished Graduate and Hoyt S. Vandenberg Award Recipient for Commissioned Officer Training, Class 12-01
- Robert L. Lowry Award and MOAA Academic Excellence Award Recipient for Judge Advocate Staff Officer Course, Class 12-B

### PRESENTATIONS

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#### 2023

- The Supreme Court and You (Foulston Siefkin LLP, Kansas Health Law Institute)
- Hey, You Can't Do That! (Or Can You?) (Foulston Siefkin LLP, Kansas Health Law Institute)
- Bad Boys, Bad Boys, Whatcha Gonna Do When They Come for You? (Kansas Hospital Association, Corporate Compliance Workshop)

#### 2021

# FOULSTON

## ATTORNEYS AT LAW

- Legislation, Litigation, and Other Trends (Foulston Siefkin LLP, Health Law Institute Webinar Series)
- Money for Nothin' and Your Grief for Free (Foulston Siefkin LLP, Health Law Institute Webinar Series)
- Stump the Panel (Foulston Siefkin LLP, Health Law Institute Webinar Series)

### 2020

- Unmasked: Healthcare Litigation Trends of 2020 and What We Can Learn from Them (Foulston Siefkin LLP, Health Law Institute Webinar Series)
- Non-Economic Damage Caps In Kansas After *Hilburn v. Enerpipe* (Johnson County Bar Association, Webinar CLE)

### 2019

- The DOJ, FCA, and ACA, Oh My! Healthcare Just Got Scariest, but There Might be a Rainbow Out There Somewhere (Foulston Siefkin LLP, Health Law Institute)

### 2018

- The Use of the False Claims Act in Government Investigations (WSU Barton School of Business, Accounting and Auditing Conference)

## PUBLICATIONS

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### 2015

- *Miranda: To Give, Or Not To Give, That Is The Question—At Least With Regard To The Non-Afghan Detainees Being Held In Afghanistan*  
-63 DRAKE L. REV. 473 (2015)

## COMMUNITY INVOLVEMENT

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- Board Member, Wichita American Heart Association (AHA)
- Executive Leadership Team Member, AHA's 2022 Wichita Heart Walk
- Member, Benedictine College *Transforming Culture in America* strategic plan subcommittee on law and public policy
- Youth Sports Coach, Andover and East Wichita YMCAs and Wichita Defenders

## ISSUE ALERTS

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### 2024

- FTC Issues Final Rule Banning Non-Compete Agreements