



## K. Nichole Nesbitt

### Partner

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### Related Practices

Commercial and  
Business Tort Litigation

Employment Litigation

Medical Malpractice

Medical Institutions Law

Professional Liability

Insurance Law

Hospitality Law

## K. Nichole Nesbitt

Ms. Nesbitt is a partner with the firm. Her current practice concentrates on medical malpractice defense and complex commercial litigation, as well as cases that combine the two fields. She represents several health systems in Maryland and the District of Columbia, handling complicated malpractice cases as well as credentialing, employment, and compliance-related matters. Ms. Nesbitt also handles employment matters outside of the healthcare context for employers in this region and beyond. Ms. Nesbitt's experience as a litigator provides her with insight to counsel her employment clients on drafting guidelines, policies, and agreements, in addition to defending matters that have already proceeded to litigation.

For the entirety of her 16 years at the bar, Ms. Nesbitt has worked for Goodell DeVries and has moved through the ranks from summer associate to partner. Likewise, she has enjoyed positions of leadership in the Maryland Defense Counsel, the Defense Research Institute, and in non-legal organizations such as JDRC.

### Education

- University of Maryland (B.A., *cum laude*, 1996)
- University of Maryland, School of Law (J.D. 1999) Order of the Coif

### Court Admissions

- District of Columbia
- Maryland
- United States District Court for the District of Columbia
- United States District Court for the District of Maryland
- United States Court of Appeals for the District of Columbia Circuit
- United States Court of Appeals for the Fourth Circuit

### Professional Associations

- International Association of Defense Counsel (2017-present)
- Maryland Defense Counsel, Inc. (President 2015-2016; Co-Chair of Legislative Committee 2009-present)
- The Defense Research Institute (Lawyers' Professionalism and Ethics Committee)
- District of Columbia Defense Lawyers Association (Active Member)
- Maryland Society for Healthcare Risk Management (Active Member)
- District of Columbia Bar Association
- Maryland State Bar Association
- Bar Association of Baltimore City
- American Bar Association

### Honors and Awards

- Leading Women Award from The Daily Record (2011)

### Selected Cases and Decisions

Al-Ameri v. The Johns Hopkins Health System, United States District Court for the District of Maryland. Obtained summary judgment on claims for more than \$1M in medical expenses on the grounds that all expenses were paid by the government of the plaintiff's home country, the United Arab Emirates.

Hall v. MedStar Physician Partners, Maryland Court of Special Appeals (2014-2016). Obtained affirmance of a change in venue from Baltimore City Circuit Court to Baltimore County Circuit Court in professional liability case against a health care provider. Ms. Nesbitt argued for a change in venue based upon the public interest of having a case decided in the venue in which the dispute arose and in which the parties had previously been residents, even though both individual parties had since moved away and issues of pure convenience were neutral. The lower court granted the requested change in venue, and the appellate court affirmed.

Chen v. Mayor & City Council of Baltimore, United States District Court for the District of Maryland (2013) (affirmed by Court of Appeals for the Fourth Circuit). Obtained dismissal for failure to effect service. The case proceeded to the Fourth Circuit, where it was affirmed, and the United States Supreme Court granted certiorari but then dismissed the plaintiff's appeal after he failed to pursue it.

Pojhan v. St. Agnes HealthCare, Inc., et al., Circuit Court for Baltimore City, Maryland (2011). Obtained summary judgment on behalf of hospital and hospital's internal medicine residency program director in discrimination and defamation case brought by former resident. The resident alleged that he was subjected to a hostile working environment and ultimately terminated from the program on the basis of his national origin and his complaints concerning his hours and work conditions. The court held that the defendants were immunized from liability for the resident's breach of contract and common law tort claims pursuant to the Health Care Quality Improvement Act. The court further held that the discrimination and retaliation claims could not go forward because of the resident's failure to file a charge of discrimination with the EEOC or Maryland Human Relations Commission, and also because the undisputed facts demonstrated legitimate, nondiscriminatory reasons for the hospital's employment decisions regarding the resident.

Tyler v. City of College Park, Circuit Court for Prince George's County, Maryland (2010). Obtained affirmance by Court of Appeals of summary judgment entered in favor of City of College Park in case involving constitutional challenge to the City's rent stabilization ordinance. The ordinance creates caps on rents that may be charged by owners of single family properties, but does not apply to apartment complexes. Plaintiffs argued that the ordinance improperly discriminates against students because it was designed to force owners of single family properties to stop renting their properties so that students will be directed to apartment complexes and driven out of College Park neighborhoods. The court found that the City's ordinance served legitimate public interests and was not unconstitutional. Maryland's highest court agreed.

Gilbert v. Washington Hospital Center Corp., District of Columbia Court of Appeals (March 2010). Obtained affirmance of summary judgment for hospital and physician in medical malpractice action. Plaintiff asserted that her son was born with severe neurologic injuries after Plaintiff experienced a rupture of her uterus in labor in an attempt to have a vaginal birth after having two previous cesarean section deliveries. In addition to suing the midwives who provided the mother's prenatal care, the plaintiffs sued a physician with whom one of the midwives consulted about the plan of care prior to her delivery. Granting summary judgment, the lower court determined that the physician owed no duty to the mother, as he had no physician-patient relationship with

her. The Court of Appeals affirmed.

## Presentations

- “The Case Against Permitting Punitive Damages in Civil Cases,” Presentation to Maryland House Judiciary and Senate Judicial Proceedings committees as member of House Judiciary Punitive Damages Task Force (February 2017)
- “Communication: Let’s Talk About It,” Presentation to Multi-Disciplinary Nursing Conference (September 2016)
- “The Law of Communication in Medicine,” Presentation to Incoming Residents at Georgetown University School of Medicine (June 2016)
- “Defense Strategy: An Interactive Discussion,” Panel discussion concerning defenses under the Affordable Care Act for medical malpractice defenses (January 2016)
- “It’s So Hard to Say Goodbye: Enforcing Restrictive Covenants Against Former Employees,” Presentation to Network of Trial Law Firms (April 2015)
- “Healthcare and HealthShare: The Use and Misuse of Social Media in Medicine,” Presentation to Maryland and D.C. Society of Healthcare Risk Management (September 2014)
- “Speak Up or Stay Quiet: Ethics in the Aftermath of the GM Ignition Switch Debacle,” Presentation to the Network of Trial Law Firms (August 2014)
- “Charting: It’s More Critical Than You Think,” Presentation to Maryland Association of Physician Assistants (September 2013)
- “Legal Considerations in Graduate Medical Education,” Presentation to Association of Pulmonary and Criticare Care Medicine Program Directors (APCCMPD) (February 2013)
- “‘Friending’ the Enemy and Other Ethical Pitfalls in Social Media Discovery,” Presentation to Network of Trial Law Firms (August 2012)

## Publications

- Associate editor, Practice Manual for the Maryland Lawyer, Maryland Institute for Continuing Professional Education of Lawyers, Inc., 2002 – 2009
- “Greater Than the Sum of Its Parts: Integrating Trial Evidence & Advocacy,” Clinical Law Review, Fall 2000 (assistant to authors Alan D. Hornstein and Jerome E. Deise)

## Activities

- Juvenile Diabetes Research Foundation, Greater Chesapeake and Potomac Chapter (Secretary 2014 – 2016; Board Member 2011-present)
- Mentor to first year law students at the University of Maryland School of Law (2002 – Present)
- Judge, Regional Intercollegiate Mock Trial Tournament (1999 – Present)

## Honors and Recognitions

- Goodell DeVries Continues to Earn Top Recognition for National and Local Practice Groups by 2017 Chambers USA Guide

- 13 Goodell DeVries Partners Recognized by Best Lawyers 2016
- Goodell DeVries Partner Testifies in Opposition to a Bill that would Triple Maryland's Cap on Noneconomic Damages
- Goodell DeVries Salutes Partner K. Nichole Nesbitt on her Leading Women Award

### **Speaking Engagements**

- K. Nichole Nesbitt Speaks at the Maryland Academy of Physician Assistants on "How to Avoid Medical Malpractice"

### **Recent Case Results**

- Goodell DeVries Attorneys Obtain Defense Verdict in Wrongful Death Case Against Prince George's County Orthopedic Surgeon
- Goodell DeVries Attorneys Win Defense Verdict for Primary Care Physician and Hospital in Baltimore City Jury Trial
- Court of Special Appeals Affirms Venue Change Sought by Goodell DeVries in Medical Malpractice Case