# Rising Star: Morgan Lewis' Krissy Katzenstein

By **Braden Campbell**

*Law360 (September 12, 2019, 5:54 PM EDT)* -- Morgan Lewis &
Bockius partner Krissy Katzenstein has become a go-to attorney for
national employers accused of systemic discrimination, including
helping Amtrak beat class claims in a sprawling race bias suit to solidify
her spot as one of five employment law attorneys under age 40 honored
by Law360 as Rising Stars.

*THE BIGGEST CASE OF HER CAREER:*
As an attorney who specializes in systemic race and gender
discrimination claims, Katzenstein handles a lot of big cases such as
Amtrak's 2018 defeat of a bid to certify 11,000 class members in a nearly
20-year-old case. But her most memorable case was a gender bias class
action in which she was part of a Morgan Lewis team
representing Lockheed Martin.

The suit, which accused the aerospace giant of underpaying and denying
advancement to a nationwide class of about 20,000 women, was pending
in New Jersey federal court in 2011 when the U.S. Supreme
Court decided Wal-Mart Stores, Inc. v. Dukes.

In Dukes, the court dissolved a 1.5-million member gender bias class
action against the retailer, saying the workers challenged too many
individualized decisions. The landmark ruling is now seen as a seismic
shift in class certification standards, but its effects were hard to gauge at
the time, Katzenstein recalled.

"We all read it, we all knew it was very important," but it wasn't yet clear
how broad an impact the decision would have, she said.

But Katzenstein's team didn't wait for the case law to be fleshed out,
citing the decision in a motion opposing the workers' class certification
bid barely three weeks after the high court ruled. Later that year, the court declined to certify the class.

The win "highlighted for us that this case is really going to change the way we litigate, and the theories

**RISING
STAR**

**Krissy Katzenstein**

**Morgan Lewis**

**Age:** 36
**Home base:** Washington, D.C.
**Position:** Partner
**Law school:** Vanderbilt Law School
**First job after law school:** Associate
at Baker & Daniels LLP (now Faegre
Baker Daniels)

plaintiffs bring forward," Katzenstein said. Before Dukes, plaintiffs could base class actions on subjective decisions affecting large numbers of workers.

"There has been a shift, where now we're arguing 'this is just like Walmart' and plaintiffs are trying to come up with new and different theories," Katzenstein said. "The ongoing challenge there [for management attorneys] is 'how do we get back to the Walmart paradigm' where we're saying … what you're arguing is still about managers making decisions, it's individual managers making decisions."

### WHAT SHE'S MOST PROUD OF:

When she was first making a name for herself in the legal industry, Katzenstein got a lot of guidance from more senior attorneys. Now a bona fide Rising Star in one of the pre-eminent employment firms, she's paying it forward.

"Something that's really exciting for me is to see, as I've become more senior … is to have associates who have the same interests in these types of cases really grow and develop."

"These types of cases in particular, where we have large case teams, they lend themselves to a lot of organic mentoring where you can really develop relationships with associates," Katzenstein said.

Katzenstein described one such recent case involving Merck that required her team to depose 60 opt-in plaintiffs. It offered "a really fun opportunity for a lot of associates to take their first depositions," many of which she helped with, Katzenstein said.

"There were certainly those people who really taught me a lot along the way and really helped me grow as a lawyer," she said. "Now to have that same ability to do that for more junior attorneys is something I really appreciate."

### WHY SHE BECAME AN EMPLOYMENT ATTORNEY:

In law school, Katzenstein was "100 percent" sure she would be a transactional attorney advising corporations. But that changed in her time as a summer associate at Baker Daniels, where she struck up a relationship with a senior attorney who specialized in employment law.

"I don't think I knew anything about [employment]," Katzenstein said. "She was a great mentor, and really taught me a lot in that summer.

"I learned very quickly this is interesting work, it's really fun. It's got a human element to it, which I enjoy … the nature of the case is often about human interaction, which I think also makes it a little bit more interesting," she said.

Katzenstein also enjoys some of the unique aspects of systemic discrimination suits, including the intricacies of class and collective action procedures and the high-level math that often comes into play, she said.

"I enjoy the statistical piece of it, and oftentimes we'll have consulting and testifying experts who are looking at the compensation, promotion, performance-rating decisions [at issue]" she said. "I enjoy math, but also just enjoy working with those experts, learning about what the data are showing, how that supports our theory of the case, and how we can convey that to the court in a way that's digestible."

*THE NEXT BIG ISSUES IN EMPLOYMENT LAW:*

As the #MeToo movement continues to roil U.S. workplaces, Katzenstein is keeping a close eye on Washington, D.C., where lawmakers are considering limiting the use of workplace arbitration agreements that victims' advocates say keep bad behavior under wraps.

"It'll be interesting to see what, ultimately, Congress does with arbitration agreements and this new focus on sex harassment claims, which I think will eventually bleed into other types of harassment, and potentially discrimination as well," she said, noting many of her clients use arbitration agreements.

The movement could also beget reverse discrimination claims by members of dominant classes, who may feel aggrieved by employers emphasis on diversity and inclusion, Katzenstein said. She added she's likewise keeping an eye on age discrimination. Plaintiffs have brought systemic claims for age bias "here and there, but I think there's definitely opportunity for that type of claim to be litigated more frequently," she said.

*— As told to Braden Campbell*

*Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2019 Rising Stars winners after reviewing more than 1,300 submissions. Attorneys had to be under 40 years old as of April 30, 2019, in order to be considered for this year's award. This interview has been edited and condensed.*