

Rising Star: WilmerHale's Jeffrey I. Kessler

By Rae Ann Varona

Law360 (June 9, 2022, 2:02 PM EDT) -- WilmerHale's Jeffrey Kessler has dedicated his career to the field of international trade, serving as a lead adviser for Boeing in its long-running trade dispute with Airbus as well as a key decision-maker at the U.S. Department of Commerce, where he was appointed assistant secretary for enforcement and compliance, earning him a spot among the international trade attorneys under age 40 honored by Law360 as Rising Stars.

WHY HE'S AN INTERNATIONAL TRADE ATTORNEY:

Kessler said his whole career has been in international trade, saying his interest in it started even before he attended Stanford Law School. That interest eventually led him to join the international trade group when he went to WilmerHale as an associate in 2011.

"I've always been fascinated by the idea that the United States [and its] allies designed the global architecture for international commerce after World War II, which generated historic levels of prosperity and peace," Kessler said. "I wanted to be a part of that system."

Kessler — who in addition to his law degree received a master's degree in economics in 2010 and was a John M. Oline Law and Economics Fellow — added that the field was also a good match for his academic interests in history, foreign languages and economics.

THE BIGGEST CASE OF HIS CAREER:

Kessler served as a lead adviser for Boeing in its trade feud with Airbus, which lasted more than 16 years and involved litigation of multiple World Trade Organization disputes with the European Union. Since 2011, he has worked closely with the Office of the U.S. Trade Representative to construct case strategy and prepare written submissions and oral statements.

In June 2021, the U.S. and EU announced a five-year tariff ceasefire in a deal President Joe Biden called a "major breakthrough." European Commission President Ursula von der Leyen similarly called the agreement a "breakthrough" that "opens a new chapter in our relationship because we

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**RISING
STAR**



Jeffrey I. Kessler
WilmerHale

Age: 39

Home base: Washington, D.C.

Position: Partner

Law school: Stanford Law School

First job after law school: Associate at WilmerHale

move from litigation to cooperation on aircraft — after 17 years of dispute."

"This is the longest-running WTO dispute in history, the highest ever countermeasures award for the United States," Kessler said. He said the dispute has spanned nearly his entire career thus far.

"These disputes resulted in significant litigation victories, finding billions of dollars in WTO-inconsistent subsidies to Airbus and at the end of the day, very little on the U.S. side that is WTO-inconsistent," Kessler said. "That victory was the product of years of effort by myself, others at WilmerHale, and others at the office of the U.S. Trade Representative."

OTHER NOTABLE CASES:

Kessler similarly was a key adviser in a WTO litigation challenging Brazilian tax measures in 2019, as well as a case in which he helped successfully petition for the issuance of countervailing duties on phosphate fertilizers from Morocco and Russia in 2021.

Kessler now serves as a key adviser to a large public U.S. company on supply chain integrity and forced Uyghur labor concerns in multiple jurisdictions, advising the company both in preparing for the implementation of the Uyghur Forced Labor Prevention Act and advising it on advocacy strategy through both formal and informal channels.

Kessler said it was a privilege to be involved in the cases and in contributing to good outcomes for the domestic industry.

"All the hot-button topics in the trade world are part of my practice. Whether it's an issue of U.S. legislation, or international agreement, digital trade, China — my practice encompasses all of that and that's something I find very rewarding," he said. "It's rewarding to be on the front lines and active on all the most important, most prominent trade issues at any given time."

HIS PROUDEST MOMENT:

At 36 years old, Kessler was unanimously confirmed by the U.S. Senate to serve as the Department of Commerce's assistant secretary for enforcement and compliance in 2019. There, he headed the 360-person office overseeing, among other things, the enforcement of anti-dumping and countervailing duty laws and foreign compliance with trade agreements.

Successfully finalizing trade pacts on politically sensitive products is a professional accomplishment Kessler said he is most proud of.

"These were highly fraught, highly politically charged negotiations with significant stakeholder interest and significant Hill interest," he said. "Failure to reach a negotiated outcome could have resulted in significant tariffs being imposed. That could potentially have been disruptive in the broader economy."

While at Commerce, Kessler initiated 104 trade remedy investigations — the most ever in a single fiscal year — and designed a package of regulations that represented the broadest overhaul of trade enforcement rules in more than two decades. He was also able to implement an aggressive trade enforcement effort, renegotiate a series of product-specific trade pacts, and issue a new regulation to countervail foreign currency undervaluation.

Kessler said negotiations involved everything from Russian uranium to Mexican tomatoes and sugar.

"Negotiations are really hard and complicated and we reached ... very aggressive and favorable outcomes for the United States," he said of his work at Commerce.

After Kessler's tenure finished at the end of former President Donald Trump's term, he went back to WilmerHale.

When asked about his transition from senior Commerce official back to private-practice attorney, Kessler said he found different things rewarding about each position.

"While I was the assistant secretary, the enforcement of the trade remedy laws reached a high-water mark, and I was honored to be a part of that and to oversee it," Kessler said.

He said that as a private-practice attorney, his goal and role have shifted to ensure client success.

"It's a different frame, and I enjoy it," he said. "I enjoy helping my clients succeed."

WHAT MOTIVATES HIM:

Kessler said he finds it energizing to be surrounded by colleagues whom he described as talented, high-performing and ambitious.

"I enjoy delivering the best possible product [and] the most thoughtful possible advice to my clients," he said. "At the end of the day, it's about holding myself to a higher standard and surrounding myself with interesting, thoughtful colleagues."

HOW HE THINKS INTERNATIONAL TRADE WILL CHANGE OVER THE NEXT 10 YEARS:

Kessler predicts there will be an even greater emphasis on the enforcement of trade rules as well as on supply chain security and integrity. Tensions with China and Russia will be another significant factor in setting the direction of trade policy and law, he said.

"At the moment, it's unclear how robust the affirmative trade negotiating agenda will be — if there is a return of a strong affirmative negotiating agenda on the part of the United States," Kessler added. "That will also figure prominently in the practice of trade law."

— As told to Rae Ann Varona

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2022 Rising Stars winners after reviewing more than 1,350 submissions. Attorneys had to be under 40 as of April 30, 2022, to be eligible for this year's award. This interview has been edited and condensed.