

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Eric Stefan Dreiband

2. **Position**: State the position for which you have been nominated.

Assistant Attorney General for the Civil Rights Division, U.S. Department of Justice

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113

Residence: Potomac, Maryland

4. **Birthplace**: State date and place of birth.

1963; Indianapolis, Indiana

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1989-1992, Northwestern University School of Law, Juris Doctor, 1992

1992, Harvard Law School (visiting student)

1987-1989, Harvard University Divinity School, Master of Theological Studies, 1989

1982-1986, Princeton University, A.B., 1986

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

Affiliations (compensated):

2008-present

Jones Day

51 Louisiana Avenue, N.W.

Washington, D.C. 20001-2113

Partner

2005-2008

Akin Gump Strauss Hauer & Feld, LLP

1331 New Hampshire Avenue, N.W.

Washington, D.C. 20036-1564

Partner

2003-2005

United States Equal Employment Opportunity Commission

131 M Street, N.E.

Washington, D.C. 20507

General Counsel

2002-2003

U.S. Department of Labor, Wage & Hour Division

200 Constitution Avenue

Washington, D.C. 20210

Deputy Administrator

Summer 1992, 1994-1997, 2000-2002

Mayer Brown & Platt

190 South LaSalle Street

Chicago, Illinois 60603-0003

Associate

1997-2000

Office of Independent Counsel Kenneth W. Starr

1001 Pennsylvania Avenue, N.W., Suite 490-North

Washington, D.C. 20004

Associate Independent Counsel

1992-1994

Chambers of the Honorable William J. Bauer

U.S. Court of Appeals for the Seventh Circuit

219 South Dearborn

Chicago, Illinois 60604

Law Clerk

Summer 1991
Skadden Arps Slate Meagher & Flom
333 Wacker Drive
Chicago, Illinois 60606
Summer Associate

Summer 1990, Summer 1991
Hopkins & Sutter
Chicago, Illinois
Summer Associate

1989-1991
Northwestern University School of Law
375 East Chicago Avenue
Chicago, Illinois 60611-3069
Student Worker

Summer 1989
Our Place Bar & Grill
Fort Wayne, Indiana
Security

Summer 1988
Roofing job
In or near Greenwich, Connecticut
Roofer

1987-1989
Bunting Institute of Radcliffe College
Harvard University
Cambridge, Massachusetts 02138
Student Worker

1986-1987
Reboul, MacMurray, Hewitt, Maynard & Kristol
45 Rockefeller Plaza
New York, NY 10111-0100
Paralegal

1987
New York Jets Football Club
1000 Fulton Avenue
Hempstead, NY 11550
Professional Football Player

1986

Saint Louis Football Cardinals
700 Clark Ave
St. Louis, MO 63102
Professional Football Player

Affiliations (Uncompensated):

Summer 1988
Office of the Honorable Paul Helmke
Mayor of Fort Wayne
Fort Wayne, Indiana
Summer Clerk

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the U.S. Military. I registered for selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

To the best of my recollection and through searches of publicly available databases, I have compiled the following list of awards and honors:

Distinguished Professional Achievement Award, Cathedral High School, Indianapolis, Indiana, 2017.

Legal 500, 2016-2017.

Best Lawyers in America, 2014-2017.

Fellow, The College of Labor and Employment Lawyers, 2016.

Washington, D.C. Super Lawyers, 2013-2017.

Employment MVP, Law 360, 2014.

Who's Who Legal – The International Who's Who of Management Labour & Employment Lawyers, 2013.

Ranked in Chambers USA, 2006-2017; Band One Ranking, 2016 and 2017.

Secretary of Labor's Compliance Assistance Award, 2003.

Secretary of Labor's Exceptional Achievement Award, 2003.

Special commendation, Federal Deposit Insurance Corporation Office of Inspector General, 1999.

Graduated with honors, Northwestern University School of Law, 1992.

Articles Editor, Northwestern University Law Review, 1991-1992.

Charles M. Caldwell Trophy, Princeton University, 1985.

All Ivy football, second team, 1985.

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association, member, intermittently since approximately 2006.

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

State of Illinois, Admitted on November 5, 1992

District of Columbia, Admitted on April 3, 2006

I have had no lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States (admitted January 21, 2004)

U.S. Court of Appeals for the Second Circuit (admitted November 17, 2014)

U.S. Court of Appeals for the Third Circuit (admitted June 12, 2000)

U.S. Court of Appeals for the Fourth Circuit (admitted June 13, 1996)

U.S. Court of Appeals for the Fifth Circuit (admitted April 8, 2015)

U.S. Court of Appeals for the Sixth Circuit (admitted December 18, 2012)

U.S. Court of Appeals for the Seventh Circuit (admitted December 15, 1992)

U.S. Court of Appeals for the Tenth Circuit (admitted June 13, 2014)

U.S. Court of Appeals for the Eleventh Circuit (admitted June 25, 2014)

U.S. Court of Appeals for the District of Columbia Circuit (admitted April 28, 1999)

U.S. District Court for the Northern District of Illinois (admitted October 19, 1994)

U.S. District Court for the District of Maryland (admitted November 5, 2007)

U.S. District and Bankruptcy Courts for the District of Columbia (admitted June 4,

2012)

I have also been admitted *pro hac vice* by various courts for specific cases.

I have had no lapses in membership.

11. Memberships:

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

College of Labor and Employment Lawyers (2016-present).

Federalist Society for Law & Public Policy Studies (intermittently from approx. 1992-present; vice president, Chicago Lawyers Chapter, approx. 1995-1997).

John Carroll Society, Washington, D.C. (2012-present).

Republican National Lawyers Association (approx. 2000-unknown).

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminate on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

As far as I know, none of the organizations listed in response to question 11a above discriminate on the basis of race, sex, religion or national origin, and I am unaware of any prior discrimination by any of these organizations.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

To my recollection and through searches of publicly available databases, I or people acting on my behalf have found the following works that I authored or co-authored.

December 2016: Business and Commercial Litigation in Federal Courts 4th Chapter 104 Employment Discrimination. American Bar Association Section of Litigation. Copy available upon request.

Fall, 2016: “Deference to EEOC Rulemaking and Sub-Regulatory Guidance: A Flip of the Coin?” American Bar Association (32 ABA J Lab & Empl L 93). Copy supplied.

March 17-18, 2016: “Recent Development at the Equal Employment Opportunity Commission,” Advanced Employment Law & Litigation 2016. ALI-CLE Course Materials. Copy supplied.

2015: Employment Discrimination Law, Fifth Edition, Chapter 2 Disparate Treatment, Chapter Update Chair; Chapter 13, Disability, Assoc. editor; Chapter 26 EEOC Administrative Process, Chapter Chair; Chapter 29 Title VII Litigation Procedure, Assoc. editor; Chapter 30 EEOC Litigation, Assoc. editor. Chapter 34 Discovery, Assoc. editor; Chapter 37 The National Labor Relations Act, Assoc. editor. American Bar Association, Section of Labor & Employment Law. Copy available upon request.

May 21, 2015: “*Mach Mining, LLC v. EEOC*: Supreme Court Holds that Courts Engage in Limited Review of EEOC Conciliation Efforts,” Mondaq. Copy supplied.

April 2015: Eric S. Dreiband and Brett Swearingen, “The Evolution of Title VII – Gender Identity, and the Civil Rights Act of 1964,” Jones Day. Copy supplied.

March 20, 2015: “Proposed Wellness Plan Legislation Responds to Lawsuits Filed by EEOC,” Mondaq. Copy supplied.

September 17, 2014: “Ban the Box”: A Discussion of State and Local Laws Restricting Inquiries Into an Applicant’s Criminal History. Mondaq. Copy supplied.

March 18, 2014: “U.S. Supreme Court Extends Sarbanes-Oxley Whistleblower Protections to Employees of Private Contractors,” Mondaq. Copy supplied.

2014: Psychological Issues in Employment Law, 2014, (series) Litigation and Administrative Practice Series: Litigation Course Handbook no. H-941; “Mental Disabilities and the Americans with Disabilities Act (Prepared on January 7, 2014),” Practising Law Institute. Available at https://plustest.pli.edu/Details/Details?start=1700&rows=50&sort=s_title%20asc&fq=~2B~title_id~3A282B22~51838~2229202B~id~3A282B22~51838-CH3~2229~&facet=true&q=legal_boolean

October 1, 2013: "Systemic Discrimination Investigations," Practical Law. Available at <http://us.legacy.practicallaw.com/5-522-9071>

September 1, 2013: "Inside the Minds: Complying with Employment Regulations," Thomson Reuters Westlaw, 2013 Revised Edition. Copy available upon request.

August 19, 2013: "Court Enters Judgment Against EEOC in Criminal Background Check Case," Mondaq. Copy supplied.

August 6, 2013: "United States: Employer Wellness Programs: What Financial Incentives are Permitted Under the Law?" Mondaq Business Briefing. Copy supplied.

July 9, 2013: "United States: U.S. Supreme Court Imposes High Standard on Title VII Retaliation Plaintiffs," Mondaq Business Briefing. Copy supplied.

July 8, 2013: "U.S. Supreme Court Clarifies Who is a Supervisor Under Title VII," Mondaq. Copy supplied.

July 2013: Leading Lawyers on Analyzing Legislation and Adapting to the Changing State of Employment Law. Complying with Employment Regulations, 2013. "Responding to EEOC Regulations." Copy supplied.

June 21, 2013: "The Government Checks Criminal Records. Why Can't Private Employers?" Forbes. Copy supplied.

March 11, 2013: "United States: OFCCP Rescinds 2006 Compensation Standards and Self-Audit Guidelines and Replaces them with Directive Calling for Expansive Investigations. Mondaq Business Briefing. Copy supplied.

March 2013: "Recent Developments at the Equal Employment Opportunity Commission," as presented at the ABA Section on Labor and Employment Law's 2013 National Conference on Equal Employment Law April 3-6. Copy supplied.

January 3, 2013: "EEOC Sets its Priorities in Strategic Enforcement Plan," Mondaq. Copy supplied.

May 9, 2012: "United States: EEOC Issues New Guidance on the Use of Criminal Background Checks by Employers," Mondaq Business Briefing. Copy supplied.

May 5, 2011: "United States: U.S. Supreme Court Finds FAA Preempts State Rules That Denied Enforcement of Class Action Waivers in Arbitration Agreements," Mondaq Business Briefing. Copy supplied.

March 23, 2011: Labor & Employment Alert: OFCCP Issues Active Case Enforcement Directive,” Mondaq. Copy supplied.

2010: Employment Discrimination Law and Litigation, (series) Litigation and Administrative Practice Series: Litigation Course Handbook no. H-828; “Recent Developments in Disabilities Discrimination and Litigation: Use of Expert Witnesses,” Practising Law Institute. Available at https://plus.pli.edu/Details/Details?rows=10&fq=title_id~3A2822~23389~2229202B~id~3A282B22~23389-CH8~2229~&facet=true&q=legal_boolean

January 30, 2009: “President Obama Signs First Bill: Lilly Ledbetter Fair Pay Act of 2009,” Mondaq. Copy supplied.

January 21, 2009: “Significant Labor And Employment Initiatives Of The Obama Administration And 111th Congress,” Mondaq. Copy supplied.

November 2008: “Responding to EEOC Complaints,” Security Management 52, no. 11, (2008). American Society for Industrial Security. Copy supplied.

May 1-3, 2008: “Dealing with the EEOC: Effective Techniques for Working with the Commission,” Employment and Labor Relations Law for the Corporate Counsel and the General Practitioner. ALI-ABA Course of Study. Available at https://www.ali-cle.org/index.cfm?fuseaction=online.chapter_detail&paperid=251544&source=2#

October 3, 2007: “More on Last Week’s Grant in No. 06-1037, Kentucky Retirement Systems v. EEOC,” SCOTUS BLOG. Copy supplied.

July 3, 2007: “Parents Involved and the Future of Employer Diversity Plans,” Workplace Prof Blog. Copy supplied.

January 7, 2006: “Willie Sutton Was a Picker,” Wall Street Journal. Copy supplied.

April 1, 2005: Civil Rights Anniversary Symposium, “Celebration of Title VII at forty.” Symposium held at University of Memphis. (Symposium issue of University of Memphis law review, v. 36, no. 1 (fall 2005)). Copy supplied.

2005: “Regional Attorneys’ Manual,” Issued by EEOC. Copy supplied.

October 11, 1995: “Palmer Stadium” Letter to the Editor, Princeton Alumni Weekly. Copy supplied.

Fall 1986: “My Shot at the Pros,” Princeton Alumni Weekly. I have not been able to locate a publically available copy of this letter.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

To my recollection and through searches of publicly available databases, I or people acting on my behalf have not found any material response to this sub-question that is not also responsive to one of the other sub-parts to question twelve and has been listed there.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

To my recollection and through searches of my records and publicly available databases, I or people acting on my behalf have found the following communications relating to matters of public policy or legal interpretation that I issued or provided or that others presented on my behalf to public bodies or public officials.

January 29, 2015: The Senate Committee on Health, Education, Labor and Pensions hearing on “Employer Wellness Programs: Better Health Outcomes and Lower Costs,” Testimony of E. Dreiband. Copy supplied.

September 17, 2014: House Committee On Education And The Workforce, Subcommittee On Workforce Protections Holds A Hearing On Workforce Protection Bills (HR4959), Testimony of E. Dreiband. Copy supplied.

September 17, 2014: “House Panel Listens to Competing Views on Bills to Curb the EEOC’s Alleged Abuses,” Bloomberg BNA, 43 EDR 310. Copy supplied.

June 16, 2010: “House Judiciary Subcommittee Hears Testimony on Bill to Overturn High Court’s Gross Ruling,” Bloomberg BNA, 34 EDR 677. Copy supplied.

June 10, 2010: House Judiciary Subcommittee on Constitution, Civil Rights, and Civil Liberties Hearing – “Protecting Older Workers Against Discrimination Act,” Testimony of E. Dreiband. Copy supplied.

May 6, 2010: Senate Committee on Health, Education, Labor and Pensions Holds Hearing on Older Worker Fairness. Testimony of E. Dreiband. Copy supplied.

May 5, 2010: Sub-Committee Health, Employment, Labor, and Pensions Subcommittee Event Health, Employment, Labor, and Pensions Subcommittee hearing on H. R. 3721, the "Protecting Older Workers Against Discrimination Act." Testimony of E. Dreiband. Copy supplied.

July 22, 2009: "*Ricci* Will Impact Employers More Directly, *Gross* Mainly Will Affect Lawsuits, Speakers Say," Bloomberg BNA, 33 EDR 116. Copy supplied.

July 22, 2009: "EEOC Provides Guidance on Claim Waivers, Hears Testimony on Age Bias Developments," Bloomberg BNA, 33 EDR 89. Copy supplied.

July 15, 2009: "Age Discrimination in the 21st Century-Barriers to the Employment of Older Workers," Statement of Eric Dreiband. US EEOC. Copy supplied.

January 30, 2008: "Senate Panel Hears Debate on Legislation Overturning U.S. Supreme Court on Pay Bias," Bloomberg BNA, 30 EDR 135. Copy supplied.

January 24, 2008: Senate Health, Education, Labor, and Pensions Committee Hearing on ensuring workers' rights to fair pay (S. 1843). Testimony of E. Dreiband. Copy supplied.

November 20, 2007: "Sidley Austin: EEOC Commences Age Discrimination Lawsuit in IL," Class Action Reporter. Copy supplied.

September 25, 2007: Civil Rights Division Employment Section; Hearing before the Subcommittee on the Constitution, Civil Rights, and Civil Liberties of the Committee on the Judiciary House of Representatives. Copy supplied. Recording available at <https://www.youtube.com/watch?v=TCkuQC0Y5yE>.

May 7, 2003: "Special Industry Committee for All Industries in American Samoa; Appt. Convention; Hearing; Extension of Comment Period," DOL, Wage & Hour Division, Federal Register. Copy supplied.

October 7, 2002: "Employment Status of Students Bagging Groceries for Tips," DOL, Wage & Hour Division, Opinion Letter FLSA 2002-2009. Copy supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

Other than what is supplied in Appendix 12(c), to my recollection and through searches of my records and publicly available databases, I or people acting on my behalf have found the following remarks that I delivered:

May 11, 2017: Panelist, "The De-Regulation Of America: Where Are The Targets in Labor?," DHL Policy Forum, Newseum, 555 Pennsylvania Avenue, N.W. Washington, D.C. 20001. I have no recording, transcript, or notes.

April 10, 2017: "Can You Recruit on Campus?" Labor & Employment Law Practice Group Podcast, The Federalist Society for Law & Public Policy Studies. Available at <http://www.fed-soc.org/multimedia/detail/can-you-recruit-on-campus-podcast>

January 26-27, 2017: Panelist, "2017 Airline and Railway Labor and Employment Roundtable" Jones Day's Office, 2727 North Harwood Street, Suite 500 Dallas, Texas. 75201. I have no recording, transcript, or notes.

November 17, 2016: Speaker, "2016 Health Care Labor & Employment Symposium - Post Election Conference: What's Next?" Jones Day's Office, 51 Louisiana Avenue, N.W. Washington, D.C. 20001. I have no recording, transcript, or notes.

October 20, 2016: "A Review of EEOC's Fiscal Year ending September 2016 and a Look at What to Expect Next Year," Live Webcast sponsored by Celesq. Summary information supplied.

October 19-22, 2016: Speaker, "American Employment Law Council Conference (AELC)" American Employment Law Council, 4800 Hampden Lane, 7th floor Bethesda, Maryland 20814. I have no recording, transcript, or notes.

September 29-30, 2016: Speaker, "55th Annual Corporate Counsel Institute" 375 East Chicago Avenue, Chicago, Illinois. I have no recording, transcript, or notes.

July 28-29, 2016: American Conference Institute (ACI) 8th Annual Forum on Defending and Managing Employment Discrimination Litigation. "Avoiding Discrimination in Company Recruitment and Hiring Practices: The Latest on "Ban the Box," Employee Background Checks, Online Job Applications and Pitfalls to Avoid When Using Social Media Tools in Your Hiring Process," Chicago, Illinois. Summary information provided.

May 26, 2016: "eSkill Webinar: Conducting a Job Analysis – Best Practices for Results and Compliance." Available at <https://www.youtube.com/watch?v=5qYZysHjc5I>

November 10, 2015: "A Review of EEOC's Fiscal Year ending September 2015 and a Look at What to Expect Next Year," Live Webcast sponsored by Celesq. Summary information provided.

July 15, 2015: Panelist, "Supreme Court Review of Significant Employment Law Cases In The 2014-2015 Term." Webinar, description available at <http://www.jonesday.com/supreme-court-review-of-significant-employment-law-cases-in-the-2014-2015-term-07-15-2015/>

June 10, 2015: Guest Lecture, "Employment Law 101," Georgetown University Law Center, 600 New Jersey Avenue N.W. Washington, D.C. 20001. Power Point provided.

May 14-15, 2015: Speaker, "2015 Health Care Labor & Employment Symposium" Jones Day's Office, 51 Louisiana Avenue, N.W. Washington, D.C. 20001. I have no recording, transcript, or notes.

April 20, 2015: "Enforcement: Justices' Rulings Show Common Threads of Textual Readings, Conflicts on Deference," Bloomberg BNA, 44 EDR 467. Summary news account provided.

October 28, 2014: "A Review of EEOC's Fiscal Year ending September 2014 and a Look at What to Expect Next Year," Live Webcast sponsored by Celesq. Available at <http://www.celesq.com/programs/view/a-review-of-eeocs-fiscal-year-ending-september-2014>

October 8, 2014: Discussion Leader, "2014 Labor & Employment Law Discussion Group" Jones Day's Office, 77 West Wacker Drive, Chicago, Illinois 60601. I have no recording, transcript, or notes.

September 10, 2014: "EEOC's Aggressive Systemic Discrimination Initiative: Employer Strategies." Jones Day 51 Louisiana Avenue, N.W. Washington, D.C. 20001. PowerPoint provided.

July 9, 2014: "Supreme Court Round-Up: Analysis of the Supreme Court's 2013 and 2014 Labor and Employment Cases and a Preview of the Upcoming Term," Live Webcast sponsored by Celesq. Summary information provided.

May 7, 2014: "EEOC's Administrative Process: EEOC's "Sue First, Ask Questions Later" Strategy and the Federal Courts," Live Webcast sponsored by Celesq. Summary information provided.

May 1-2, 2014: Speaker, "Jones Day 2014 Railway Labor Act Symposium" Jones Day's Office, 51 Louisiana Avenue, N.W. Washington, D.C. 20001. I have no recording, transcript, or notes.

March 17, 2014: Panelist, "PLI's Psychological Issues in Employment Law 2014" PLI New York Center, 1177 Avenue of the Americas, 2nd floor, New York, New York 10036. I have no recording, transcript, or notes.

March 6, 2014: The U.S. Chamber of Commerce (USCC) holds a discussion on the practical impact of the EEOC's (Equal Employment Opportunity Commission) guidance on employers' use of background checks. Panel participant. 1615 H Street, N.W., Washington, DC 20062. Washington Daybook. Summary listing of event provided.

March 6, 2014: "Recent Developments at the EEOC: An Update about the EEOC's Enforcement Strategies and Litigation Program," Live Webcast sponsored by Celesq. Summary listing of event provided.

October 10, 2013: "Review of EEOC's Fiscal Year ending September 2013 and a Look at What to Expect Next Year," Live Webcast sponsored by Celesq. Summary listing of event provided.

May 9, 2013: "Responding to EEOC Investigations and Litigation: An Essential Guide for In-House Corporate and Employment Lawyers and Litigators," Live Webcast sponsored by Celesq. Summary listing of event provided.

April 9, 2013: Speaker, "2013 Government Contractor Labor & Employment Discussion Group," Jones Day, 51 Louisiana Avenue, N.W. Washington, D.C. 20001. I have no recording, transcript, or notes.

December 4, 2012: Speaker, "The EEOC in President Obama's Second Term" Jones Day's Office, 51 Louisiana Avenue, N.W. Washington, D.C. 20001. I have no recording, transcript, or notes.

November 14, 2012: Speaker, "Employer Wellness Policies, ADA, HIPAA and Affordable Care Act Considerations, Ohio Chamber of Commerce" Ohio Chamber of Commerce, 230 E. Town Street, Columbus, Ohio 43215. Webinar. I have no recording, transcript, or notes.

June 7-8, 2012: Panelist, "Jones Day 2012 Railway Labor Act Symposium" Jones Day's Office, 51 Louisiana Avenue, N.W. Washington, D.C. 20001. I have no recording, transcript, or notes.

June 28, 2011: Speaker, "2011 Speaker Series, Labor and Employment: The EEOC's Renewed Focus on Systemic Discrimination" Jones Day's Office, 500 Grant Street, Suite 4500 Pittsburgh, Pennsylvania 15258. I have no recording, transcript, or notes.

April 13, 2011: Panelist, "Executive Roundtable Series - Labor and Employment: What Should Employers Expect in 2011?" Jones Day's Office, 51 Louisiana Avenue, N.W. Washington, D.C. 20001. I have no recording, transcript, or notes.

October 14, 2010: Speaker, "2010 California Labor & Employment Law Briefing" Jones Day's Office, 555 California Street, 26th Floor San Francisco, California. 94104. I have no recording, transcript, or notes.

July 15, 2010: Speaker, "2010 Speaker Series: Perspectives on Federal Regulation" Jones Day's Office, 500 Grant Street, Suite 4500 Pittsburgh, Pennsylvania 15258. I have no recording, transcript, or notes.

March 16, 2010: Speaker, "Executive Roundtable Series: Top Employment Issues to Watch in 2010" Jones Day's Office, 51 Louisiana Avenue, N.W. Washington, D.C. 20001. I have no recording, transcript, or notes.

February 16, 2010: Speaker, "Employment and Labor Law: 2010: A Year of Potential Change, BrightTalk Summit" Webcast. Carr Maloney P.C. 1615 L St. NW Suite 500 Washington, DC 20036. I have no recording, transcript, or notes.

June 2009: Speaker, "2009 Labor & Employment Legislative and Regulatory Briefing" Jones Day's Office, 250 Vesey Street, New York, New York. 10281. Information available at <http://www.jonesday.com/2009-labor-employment-legislative-and-regulatory-briefing-06-19-2009/>.

October 1, 2008: "Plaintiffs in Job Bias Cases Discouraged By Poor Results in Court, Study Suggests," Bloomberg BNA, 31 EDR 381. Summary provided.

July 2, 2008: "Legislative Outlook Altered for Employer Side by Either Outcome of Election, Panel Suggests," Bloomberg BNA, 31 EDR 29. (Akin Gump assembled panel in New York on June 18, 2008). Summary provided.

April 7, 2008: "Lawyers Tout Mandatory Arbitration Case as Potentially Significant Court Ruling," Bloomberg BNA, Daily Labor Report. Summary provided.

April 4, 2008: "A Review of Supreme Court Labor and Employment Cases, 2008." The Federalist Society for Law & Public Policy discussion. Available at <http://www.fed-soc.org/multimedia/detail/a-review-of-supreme-court-labor-and-employment-cases-2008-event-audio>

February 12, 2008: SCOTUS-Discrimination, "press briefing on three employment discrimination cases currently before the Supreme Court on worker protections against employer retaliation for complaints of discrimination" Given at the National Press Club. The Frontrunner. Copy of news summary supplied.

February 15-18, 2007: ABA Litigation Section's Committee on Corporate Counsel annual CLE, American Bar Association, 321 North Clark Street Chicago, Illinois 60610. Speaker E. Dreiband, Metropolitan Corporate Counsel. I have no recording, transcript, or notes.

Fall, 2005: Civil Rights Anniversary Symposium Speech, University of Memphis. (36 U. Mem. L. Rev. 5). Copy supplied.

May 25, 2005: "Pending Ninth Circuit Case Key to Viability of Image Based Bias Claims, Panelists Say," Bloomberg BNA, 24 EDR 647. Summary provided.

December 2-4, 2004: "Advanced Employment Law and Litigation," 17th annual ALI-ABA Conference, American Law Institute, 4025 Chestnut Street Philadelphia, PA 19104. I have no recording, transcript, or notes.

August 18, 2004: "Enforcers Seeing Heightened Enforcement of Employment Cases by DOJ, EEOC, DOL," Bloomberg BNA, 23 EDR 201. Summary provided.

April 21, 2004: "Agency's Chief Policymaker, Litigator Address Employment Bar," Bloomberg BNA, 22 EDR 470. Summary provided.

April 15-16, 2004: Speaker, Georgetown University Law Center conference, "Employment Law and Litigation Institute." 600 New Jersey Avenue, N.W. Washington, D.C. 20001. I have no recording, transcript, or notes.

December 10, 2003: "Agency's New General Counsel Dreiband Spells Out EEOC Case Selection Process," Bloomberg BNA, 21 EDR 703. Summary provided.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

To my recollection and through searches of my records and publicly available databases, I or people acting on my behalf have found the following articles in which I am quoted:

April 6, 2016: "Supreme Court: Lawyers Predict Narrow Rulings in High Court Bias Cases," Bloomberg BNA, 46 EDR 390. Copy supplied.

June 13, 2013: "Opinion: Criminalizing Background Checks," WSJ Interview with Mary Kissel. Available at <http://www.wsj.com/video/opinion-criminalizing-background-checks/06E4B4D6-B599-464A-B92F-E161729604EC.html>

August 4, 2012: "Corporate News: Ex-CEO Says Cancer Led to Her Ouster," Wall Street Journal. Copy supplied.

August 24, 2009: "6 Tips for Dealing with Age Discrimination," USNews.com. Copy supplied.

May 1, 2009: "Defusing Discrimination Claims," HRMagazine. Copy supplied.

February 11, 2008: "Battle rages in Washington over bias claim time limits," Lawyers Weekly. Copy supplied.

November 19, 2007: "Minority biz Challenged at Hartsfield," Atlanta Business Chronicle. Copy supplied.

July 2, 2007: "What the Schools Cases Mean for the Workplace," SCOTUS BLOG. Copy supplied.

June 12, 2007: "*Long Island at Home, Ltd. v. Coke*: Sub-Regulatory Guidance and Pending Litigation," SCOTUS BLOG. Copy supplied.

June 25, 2006: "Thursday's Decision in *Burlington Northern v. White*," SCOTUS BLOG. Copy supplied.

November 4, 2005: "Genetic Testing Creates a Growing Tension." Legal Intelligencer. Copy supplied.

November 4, 2005: "Legal Genes; Concern Grows Over Whether Laws Related to Genetics are Strong Enough to Prevent Discrimination," Miami Daily Business Review / Palm Beach Daily Business Review / Broward Daily Business Review / The Daily Report (Fulton County GA). Also: October 31, 2005: "Legal Tension Grows Over Genetic Tests; Privacy, Potential Discrimination are Major Concerns," The National Law Journal (online). Copy supplied.

November 1, 2005: "A Labor and Employment Practice Raises the Bar," The Editor Interviews Eric S. Dreiband, The Metropolitan Corporate Counsel. Copy supplied.

October 31, 2005: "Legal Tension Grows Over Genetic Tests; Privacy, Potential Discrimination are Major Concerns," National Law Journal. Copy supplied.

September 21, 2005: "High Profile and 'No Headline' Rights Cases Equally Important to Former General Counsel," Bloomberg BNA, 25 EDR 327. Copy supplied.

March 24, 2005: Chicago: My Kind of Town, "Sidley in Age Discrimination Case," Legal Week. Copy supplied.

January 20, 2005: "US Government Takes Sidley to Court Over Partner Cull," Legal Week. Copy supplied.

March 1, 2004: "'Reverse Age Discrimination' Claim Rejected; Employers Can't be Sued for Favoring Older Workers over Younger; Supreme Court." National Law Journal (online). Copy supplied.

October 30, 2003: "Eric Dreiband Takes Oath as EEOC General Counsel Letter No. 167," EEOC Compliance Manual (EEOC Compl. Man. 27292172 (CCH)). Copy supplied.

January 23, 2003. "Labor Department Works on Overtime-Pay Rule Changes," Factiva. Copy of news article supplied.

November 4, 2002: "Uncharted Territory; Gray Area of Overtime Qualifications Could Mean More Lawsuits," Fort Worth Star-Telegram. Copy supplied.

August 25, 1986: "Sports World Specials; A Change of Leagues," The New York Times. Copy supplied.

13. Public Office, Political Activities and Affiliations:

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

Office of Independent Counsel Kenneth W. Starr
Associate Independent Counsel (1997-2000), Appointed by the Honorable Kenneth W. Starr.

U.S. Department of Labor, Wage & Hour Division
Deputy Administrator (2002-2003), Appointed by President George W. Bush.

United States Equal Employment Opportunity Commission
General Counsel (2003-2005), Appointed by President George W. Bush.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I provided legal services as outside counsel to the Donald J. Trump for President

campaign during 2016 and 2017.

14. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;
 - ii. whether you practiced alone, and if so, the addresses and dates;
 - iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

Summer 1990, Summer 1991
Hopkins & Sutter
Chicago, Illinois
Summer Associate

Summer 1991
Skadden Arps Slate Meagher & Flom
333 Wacker Drive
Chicago, Illinois 60606
Summer Associate

1992-1994
Chambers of the Honorable William J. Bauer
U.S. Court of Appeals for the Seventh Circuit
219 South Dearborn
Chicago, Illinois 60604
Law Clerk

1997-2000
Office of Independent Counsel Kenneth W. Starr
1001 Pennsylvania Avenue, N.W., Suite 490-North
Washington, D.C. 20004.
Associate Independent Counsel

Summer 1992, 1994-1997, 2000-2002

Mayer Brown & Platt
190 South LaSalle Street
Chicago, Illinois 60603-0003
Associate

2002-2003
U.S. Department of Labor, Wage & Hour Division
200 Constitution Avenue
Washington, D.C. 20210
Deputy Administrator

2003-2005
United States Equal Employment Opportunity Commission
131 M Street, N.E.
Washington, D.C. 20507
General Counsel

2005-2008
Akin Gump Strauss Hauer & Feld, LLP
1331 New Hampshire Avenue, N.W.
Washington, D.C. 20036-1564
Partner

2008-present
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Partner

- iv. Whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

My law practice has varied.

From 1992 to 1994, I served as a law clerk to the Honorable William J. Bauer of the U.S. Court of Appeals for the Seventh Circuit. My work for Judge Bauer involved assisting him with appellate litigation that came before the Seventh Circuit.

From 1997 to 2000, I served as associate independent counsel in the Office of Independent Counsel Kenneth W. Starr. In that role, I worked as a federal prosecutor and with the Federal Bureau of Investigation, the Federal Deposit Insurance Corporation Office of Inspector General, and other government agencies. I appeared before grand juries and in federal court on behalf of the United States.

From 2002 to 2003, I served as the deputy administrator for the U.S. Department of Labor's Wage and Hour Division. As deputy administrator, I worked on and supervised the enforcement of various federal labor laws, including the Fair Labor Standards Act, the Family and Medical Leave Act, and a variety of other labor standards laws.

From 2003 to 2005, I served as the general counsel of the U.S. Equal Employment Opportunity Commission. I was responsible for the EEOC's litigation program.

I have also served in private practice. I have represented individuals, nonprofit organizations, and companies in a wide variety of government investigations, administrative proceedings, and litigation. Much of my work in private practice has involved labor and employment law matters, civil rights cases, counseling individuals and organizations, and litigation in state and federal courts and before administrative agencies.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

I have represented a variety of types of clients. At various times, I have specialized in criminal law, labor and employment law, and civil rights law.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

I estimate that approximately 70% of my practice involves litigation, with the remaining 30% involving compliance, regulatory, investigative, and other matters. During my tenure as associate independent counsel, I appeared frequently before grand juries and also appeared in court. When I served at the U.S. Department of Labor, I did not appear in court. I occasionally appeared in court when I served at the U.S. Equal Employment Opportunity Commission. In private practice, the frequency of my appearance in courts has varied over time, but I have appeared in court on a fairly frequent basis.

Additional estimates are below.

i. Indicate the percentage of your practice in:

The following are estimates to the best of my recollection:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 60% |
| 2. state courts of record: | 5% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 35% |

ii. Indicate the percentage of your practice in:

The following are estimates to the best of my recollection:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 95% |
| 2. criminal proceedings: | 5% |

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

When I served as general counsel of the Equal Employment Opportunity Commission, I was responsible for and supervised several cases that were tried to verdict, judgment, or final decision. According to the EEOC's website, EEOC filed approximately 1,237 cases during the three fiscal years that ended during my tenure at the Commission. My role was supervisory; I did not personally try cases before trial courts, and I do not know how many cases were tried to verdict, judgment or final decision. Also, I personally argued cases before the federal courts of appeals.

In addition, through searches of publicly available databases including WestLaw, Lexis, and Bloomberg Law Dockets and based upon my recollection, I have been personally involved in roughly 150 distinct matters that resulted in litigation and is available in these databases. I have litigated other matters that are unavailable in any online databases, including before various local, state, and federal administrative tribunals. I am unable to provide an estimate of how many settled and how many were tried to verdict, judgment, or final decision.

i. What percentage of these trials were:

The following are estimates to the best of my recollection:

- | | |
|--------------|-----|
| 1. jury: | 5% |
| 2. non-jury: | 95% |

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

Merits Briefs:

No. 14-86, *EEOC v. Abercrombie & Fitch Stores, Inc.* (brief for respondent) (January 2015).

Amicus Briefs:

No. 14-1375, *CRST Van Expedited, Inc. v. EEOC* (amicus brief for Chamber of Commerce of the United States of America and Business Roundtable in support of petitioner) (January 2016).

No. 13-1019, *Mach Mining, LLC v. EEOC* (amicus brief for Retail Litigation Center, Inc., Chamber of Commerce of the United States of America, and National Federation of Independent Small Business Legal Center in support of petitioner) (March 2014).

No. 04-944, *Arbaugh v. Y & H Corporation d/b/a The Moonlight Cafe* (amicus brief for the United States) (August 2004).

No. 03-95, *Pennsylvania State Police v. Suders* (amicus brief for the United States) (January 2004).

Petitions for Writ of Certiorari:

Nos. 14-1418, 14-1453, 14-1505, 15-35, 15-105, 15-119, 15-191, *Zubik v. Burwell* (petition for writ of certiorari on behalf of Roman Catholic Archbishop of Washington; reply in support of petition on behalf of Roman Catholic Archbishop of Washington; supplemental brief in support of petition on behalf of Priests for Life) (June 2015-September 2015).

No. 16-971, *Richard Villarreal v. R.J. Reynolds Tobacco Co., et al.* (brief in opposition) (May 2017).

No. 14-789, *Angelo McMullan v. Raymond Booker* (petition for a writ of certiorari) (January 2015).

No. 07-539, *Progress Energy, Inc. v. Taylor* (petition for a writ of certiorari; supplemental brief for the petitioner; reply brief for the petitioner) (October 2007).

No. 04-1292, *Pemco Aeroplex, Inc. v. EEOC* (brief in opposition to writ of

certiorari) (June 2005).

No. 02-1080, *General Dynamics Land Systems, Inc. v. Cline* (brief for the United States supporting respondents) (August 2003).

15. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *People v. Geraldts*, No. 97 CR 366 (Cir. Ct. Cook County 2001) (Judge Kenneth Wadas), *aff'd*, 348 Ill. App. 3d 1087 (2004), *appeal denied*, *People v. Geraldts*, 211 Ill. 2d 593 (2004); subsequent decision, *People v. Geraldts*, 2017 IL App (1st) 143943-U (Ill. App. Ct. Mar. 30, 2017).

This case was a multi-defendant capital murder case. I represented one of the defendants. My work in the case was pro bono. Along with co-counsel, I tried the case to a jury. Before trial, the prosecutor agreed to drop its effort to seek the death penalty. The jury ultimately found the defendant guilty of felony murder, robbery, residential burglary, and possession of a stolen motor vehicle, but my client was spared the death penalty.

Co-Counsel:

Marc Kadish
Mayer, Brown & Platt
190 South LaSalle Street
Chicago, Illinois 60603

Michael Goldberg
Mayer, Brown & Platt
190 South LaSalle Street
Chicago, Illinois 60603

Amy Walsh Kern
Mayer, Brown & Platt
190 South LaSalle Street

Chicago, Illinois 60603

Opposing Counsel:

Robert Hovey
Cook County State's Attorney
69 W. Washington, Chicago, Illinois 60602

Patrick Kelly
Cook County State's Attorney
69 W. Washington, Chicago, Illinois 60602

2. *Ameritech Ben. Plan Comm. v. Commc'n Workers of Am.*, 220 F.3d 814 (7th Cir. 2000); *EEOC v. Ameritech Servs., Inc.*, 129 F. App'x 953, 954 (6th Cir. 2005). (U.S. Court of Appeals for the Seventh Circuit: Judge Cudahy, Ripple, and Wood) (U.S. Court of Appeals for the Sixth Circuit: Judge Martin, Cook, and Lay).

This case involved allegations that a telecommunications company violated ERISA, Title VII of the Civil Rights Act of 1964, and the Equal Pay Act when it did not adjust seniority dates for women who took maternity leave prior to the 1979 effective date of the Pregnancy Discrimination Act. Ultimately, the U.S. Courts of Appeals for the Sixth and Seventh Circuits concluded that the telecommunications company did not violate Title VII. In the case coming out of the Seventh Circuit, the Supreme Court denied the other side's petition for a writ of certiorari. I was one of the lawyers for the defendants.

Co-Counsel:

Mary K. O'Melveny
Communications workers of America
501 Third Street, N.W.
Washington, D.C. 20001-2797
202-434-1213

Robert J. Gregory
Equal Employment Opportunity Commission
Room 7001
1801 L Street, N.W.
Washington, D.C. 20507

Ann Elizabeth Reesman
1015 15th Street N.W. Suite 1200
Ameritech Pension Plan
Washington, D.C. 20005

Opposing Counsel:

James D. Holzhauer
Mayer Brown
71 S. Wacker Drive
Chicago, Illinois 60606
(312) 782-0600

Jeffrey W. Sarles
Mayer Brown
71 S. Wacker Drive
Chicago, Illinois 60606
(312) 782-0600

Robert A. Bloom
Mayer Brown
71 S. Wacker Drive
Chicago, Illinois 60606
(312) 782-0600

Jeri. A. Lindahl-Garcia
Mayer Brown
71 S. Wacker Drive
Chicago, Illinois 60606
(312) 782-0600

3. *EEOC v. Morgan Stanley & Co.*, No. 01-8421, 2004 WL 1542264 (S.D.N.Y. July 8, 2004).
(U.S. District Court for the Southern District of New York: Judge Berman).

The EEOC sued Morgan Stanley and alleged sex discrimination in pay and promotions. I served as general counsel of the EEOC when the case was pending in litigation and, with colleagues, negotiated a \$54 million settlement as part of the consent decree to end this litigation. Among other things, Morgan Stanley agreed to the appointment of an internal ombudsperson and an outside monitor, the implementation of management training on federal anti-discrimination laws, and the creation of several programs to address the promotion and retention of women at the company.

Co-Counsel:

Elizabeth A. Grossman
U.S. Equal Employment Opportunity Commission
33 Whitehall Street, 5th Floor
New York, New York 10004
(212) 336-3696
elizabeth.grossman@eeoc.gov

Katherine E. Bissell
U.S. Equal Employment Opportunity Commission

33 Whitehall Street, 5th Floor
New York, New York 10004
(212) 336-3696
katherine.bissell@eeoc.gov

Intervenor Plaintiff

Piper Hoffman
Outten & Golden, LLP
3 Park Avenue, 29th Floor
New York, New York 10016
(212) 2451000

Wayne N. Outten
Outten & Golden, LLP
3 Park Avenue, 29th Floor
New York, New York 10016
(212) 245-1000

Scott Adam Moss
Moss Law Practice
8053 E. 24th Drive
Denver, New York 80238
(720) 839-2920

Opposing Counsel:

Andrew Johnstone
Kirkland & Ellis
200 East Randolph Drive
Chicago, Illinois 60601
(312) 861-2000

Brian Kavanaugh
Kirkland & Ellis LLP
200 East Randolph Drive
Chicago, Illinois 60601
(312) 861-2000

Emily Nicklin
Kirkland & Ellis LLP
300 North LaSalle Street
Chicago, Illinois 60654
(312) 861-2000

Gabor Balassa

Kirkland & Ellis LLP
300 North LaSalle Street
Chicago, Illinois 60654
(312) 861-2000

Helen E. Witt
Kirkland & Ellis
200 East Randolph Drive
Chicago, Illinois 60601
(312) 861-2000

Joseph Serino, JR.
Kirkland & Ellis LLP
601 Lexington Avenue
New York, New York 10022
(212) 446-4913

Thomas E. Dutton
Kirkland & Ellis LLP
200 East Randolph Drive
Chicago, Illinois 60601
(312) 861-2000

Wendy L. Bloom
Kirkland & Ellis LLP
300 North LaSalle
Chicago, Illinois 60654
(312) 862-2343

4. *EEOC v. Paul Hall Ctr. & Seafarers Int'l Union*, 394 F.3d 197 (4th Cir. 2005). (U.S. Court of Appeals for the Fourth Circuit: Judge Wilkinson, Michael, and King).

In a case brought under the Age Discrimination in Employment Act (ADEA), the EEOC alleged that the defendants' apprenticeship program violated a 1996 regulation extending prohibitions on age discrimination to all apprenticeship programs. Defendants moved to dismiss the EEOC's claims arguing that their program was not covered by the ADEA. The district court denied this motion but certified the question for interlocutory appeal. At the Fourth Circuit, I represented the EEOC and argued that this regulation was a valid form of agency rulemaking and was entitled to deference under the Supreme Court's decision in *Chevron v. Natural Res. Def. Council, Inc.* The Fourth Circuit agreed and affirmed the District Court's denial of defendant's motion to dismiss. Ultimately, this case was settled for \$625,000 and comprehensive injunctive relief in which the defendants, as part of a consent decree, agreed to comply with the ADEA and not impose any upper limits on its apprenticeship program. The settlement funds were used to pay class members who had previously been denied entrance into defendants' program.

Co-Counsel:

Paul D. Ramshaw, Attorney
U. S. Equal Employment
Opportunity Commission
131 M Street, N.E.
Washington, D.C. 20507-0000
(202) 663-4737

Vincent J. Blackwood
U. S. Equal Employment
Opportunity Commission
131 M Street, N.E.
Washington, D.C. 20507-0000

Carolyn L. Wheeler
U. S. Equal Employment
Opportunity Commission
131 M Street, N.E.
Washington, D.C. 20507-0000
202-633-4736

Opposing Counsel:

Theresa Mannion Connolly
Isler, Dare, Ray, Radcliffe &
Connolly, PC
1919 Gallows Road
Vienna, Virginia 22182-5303
703-748-2690

Paul Alexander Mallos, Attorney
Jackson Lewis, LLP
2800 Quarry Lake Drive
Baltimore, Maryland 21209
410-415-2006

Anthony Walter Kraus, Attorney
Miles & Stockbridge, PC
10 Light Street
Baltimore, Maryland 21202-1487
410-385-3756

Christian Levine Simpson,
Attorney
Kubli & Associates, P.C.
8605 Westwood Center Drive

Vienna, Virginia 22182
703-749-0000

Kathleen Pontone
Miles & Stockbridge, PC
10 Light Street
Baltimore, Maryland 21202-1487
410-727-6464

5. *EEOC v. Jefferson Cty. Sheriff's Dep't, Kentucky Ret. Sys.*, 424 F.3d 467 (6th Cir. 2005).
(U.S. Court of Appeals for the Sixth Circuit: Judge Rogers, Sutton, and Rosen).

This case involved a public enforcement action brought under the ADEA by the EEOC against several public retirement systems in Kentucky. The EEOC alleged that defendant's employee benefits plan discriminated on the basis of age by denying or paying fewer disability retirement benefits to older workers. The district court affirmed summary judgment against the EEOC, holding that it was bound by the Sixth Circuit's earlier decision in *Lyon v. Ohio Education Ass'n and Professional Staff Union*, 53 F.3d 135 (6th Cir. 1995). On appeal to the Sixth Circuit, I argued on behalf of the EEOC. The court offered a number of criticisms of the *Lyon* decision, but stated that it was compelled to affirm the district court's decision because Kentucky's retirement plans could not be distinguished from the retirement scheme it upheld there. In February 2006, the Sixth Circuit granted EEOC's petition for rehearing en banc and reversed, but this decision was subsequently reversed by the Supreme Court. *See Kentucky Ret. Sys. v. EEOC*, 554 U.S. 135 (2008).

Co-Counsel:

Lorraine C. Davis
Equal Employment, Opportunity Commission
1801 L Street, N.W. Room 7046
Washington, D.C. 20507
202-663-4734

Carolyn L. Wheeler
Equal Employment, Opportunity Commission
1801 L Street, N.W. Room 7046
Washington, D.C. 20507
202-663-4734

Dori K. Bernstein
Equal Employment, Opportunity Commission
1801 L Street, N.W. Room 7046
Washington, D.C. 20507
202-663-4734

Opposing Counsel:

Mitchell L. Perry
Jefferson County Attorney's Office
531 Court Place
Suite 900 Fiscal Court Building
Louisville, Kentucky, 40202

James D. Allen
Stoll Keenon Ogden
300 W. Vine Street, Suite 2100
Lexington, Kentucky 40507

C. Joseph Bevin
Stoll Keenon Ogden
300 W. Vine Street, Suite 2100
Lexington, Kentucky 40507

Robert D. Klausner
Klausner & Kaufman
10059 N.W. First Court
Plantation, Florida 33324

Lizbeth A. Tully
Stoll Keenon Ogden
300 W. Vine Street, Suite 2100
Lexington, Kentucky 40507

D. Brent Irvin
Office Of The Attorney General
700 Capitol Avenue, Suite 118
Capitol Building
Frankfort, Kentucky 40601-3449

6. *Pennsylvania State Police v. Suders*, 124 S. Ct. 2342 (2004). (Supreme Court of the United States: Chief Judge Rehnquist, Associate Justices Stevens, O'Connor, Scalia, Kennedy, Souter, Thomas, Ginsburg, and Breyer).

This case involved a suit against the Pennsylvania State Police ("PSP") for sexual harassment and constructive discharge brought under Title VII of the Civil Rights Act of 1964. The district court granted summary judgment in favor of the defendants, holding that PSP could not be held vicariously liable for its employees' constructive discharge under governing precedent. The Third Circuit reversed, ruling that genuine issues of material fact remained to be resolved and the plaintiff validly stated a claim of constructive discharge for a hostile work environment. The Supreme Court granted certiorari, and I represented the United States and the EEOC in an amicus brief filed by the government in the case.

The Supreme Court issued a decision outlining the now-governing standard for constructive discharge claims, generally adopting the position taken by the government's amicus brief.

Co-Counsel:

Lorraine C. Davis
Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, D.C. 20507

Benjamin N. Gutman
Equal Employment Opportunity Commission
1801 L Street, N.W.
Washington, D.C. 20507

Theodore B. Olson
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

R. Alexander Acosta
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Paul D. Clement
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Irving L. Gornstein
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Attorneys for Petitioner:

John G. Knorr III
Office of the Attorney General
Strawberry Square, 15th Floor
Harrisburg, Pennsylvania 17120

Attorneys for Respondent

Donald A. Bailey

Counsel of Record
4311 N. 6th Street
Harrisburg, Pennsylvania 17110

Peter Buscemi
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue N.W.
Washington, D.C. 20004
pbuscemi@morganlewis.com

7. *EEOC v. Verizon*, Case 1-01832 (D. Md. 2011) (consent decree). (U.S. District Court for the District of Maryland: Magistrate Judge Gauvey).

The EEOC alleged that Verizon had violated the Americans with Disabilities Act by means of a “no-fault” attendance policy, which allowed employees a set maximum number of unexplained absences after which adverse action would be taken. The EEOC argued that the policy failed to provide sufficient flexibility to employees with disabilities. The parties managed to avoid litigation by reaching a settlement agreement approved by the district court. I represented Verizon in the case.

Opposing Counsel:

Debra Michele Lawrence
U S Equal Employment Opportunity Commission
City Crescent Bldg
10 S Howard Street, Third Floor
Baltimore, Maryland 21201
(410) 209-2734

Maria Salacuse
US Equal Employment Opportunity Commission
10 S Howard Street, Third Floor
Baltimore, Maryland 21201
(410) 209-2733

8. *EEOC v. Bloomberg L.P.*, 967 F. Supp. 2d 802 (S.D.N.Y. 2013), appeal withdrawn, No. 13-3861 (2d Cir. Feb 06, 2014), and related decisions. (U.S. District Court for the Southern District of New York: Judge Preska).

The EEOC brought suit against Bloomberg, L.P., alleging that Bloomberg discriminated against a class of its employees who were pregnant in violations of Title VII. The district court granted summary judgment in favor of Bloomberg, holding that the EEOC failed to satisfy its pre-litigation obligations before bringing suit. The court reasoned that ruling in favor of the EEOC would unjustifiably subvert the statute’s policy favoring conciliation over litigation. I represented Bloomberg in the case, reaching a final conclusion resulting in the EEOC’s withdrawal of its appeal.

Co-Counsel:

Deirdre Norton Hykal
Willkie Farr & Gallagher LLP (NY)
787 Seventh Avenue
New York, New York 10019
(212) 728-8000

Hannah M. Breshin
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
(202) 879-3783

Sherron Thomas McClain
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
(202) 879-4656

M. Carter DeLorme
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20006-3817
(202) 879-4643

Tonya M. Osborne
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
(202) 879-3757

Stephanie Holmes
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
(202) 879-3820

Vicki Renee Walcott-Edim
Jones Day
250 Vesey Street, 34th Floor
New York, New York 10281
(212) 326-3975

Thomas H Golden

Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, New York 10019
(212) 728-8000

Deirdre Norton Hykal
Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, New York 10019
(212) 728-8000

Opposing Counsel:

Elizabeth Anne Grossman
Equal Employment Opportunity Commission
33 Whitehall Street, 5th Floor
New York, New York 10004
(212) 336-3707

Robert David Rose
Equal Employment Opportunity Commission
33 Whitehall Street, 5th Floor
New York, New York 10004
(212) 336-3707

Christine Jiyeun Back
Equal Employment Opportunity Commission
33 Whitehall Street, 5th Floor
New York, New York 10004
(212) 336-3702

Kam Sau Wong
Equal Employment Opportunity Commission
33 Whitehall Street, 5th Floor
New York, New York 10004
(212) 336-3703

Michelle Anne Caiola
Equal Employment Opportunity Commission
33 Whitehall Street, 5th Floor
New York, New York 10004
(212) 336-3702

Raechel Lee Adams
Equal Employment Opportunity Commission
33 Whitehall Street, 5th Floor

New York, New York 10004
(212) 336-3707

Ana Consuelo Martinez
Equal Employment Opportunity Commission
33 Whitehall Street
New York, New York 10004
(212) 336-3671

Justin Mulaire
Equal Employment Opportunity Commission
500 W. Madison Street, Ste. 2000
Chicago, Illinois 60661
(312) 869-8045

Konrad Batog
Equal Employment Opportunity Commission
33 Whitehall Street, 5th Floor
New York, New York 10004
(212) 336-3700

Intervenor Counsel

Laurence Jay Lebowitz
Klein, Zelman, Rothermel Jacobs & Schess, LLP
485 Madison Avenue
New York, New York 10022
(212) 935-6020

William J. Dealy
Dealy & Silberstein LLP
225 Broadway Avenue, Suite 1405
New York, New York 10007
(212) 385-0066

Milo Silberstein
Dealy Silberstein & Braverman, LLP
225 Broadway Avenue, Suite 1405
New York, New York 10007
(212) 385-0066

Richard Alan Roth
The Roth Law Firm, PLLC
295 Madison Avenue, 22nd Floor
New York, New York 10017
(212) 542-8882

9. *EEOC v. U.S. Steel Corp.*, No. 10-1284, 2013 WL 625315 (W.D. Pa. Feb. 20, 2013), appeal dismissed, No. 13-2138 (3rd Cir. Jul 01, 2013). (U.S. District Court for the Western District of Pennsylvania: Judge Fischer).

The EEOC alleged that the United States Steel Corporation violated the Americans with Disabilities Act (“ADA”) when it used random drug and alcohol tests for probationary steel workers. The company required new employees, many of whom were tasked with operating heavy machinery and equipment, to maintain an alcohol and drug free environment, and enforced this policy through random screenings. The district court found that U.S. Steel fully complied with the ADA and granted summary judgment in favor of U.S. Steel. I represented U.S. Steel, bringing the matter to a conclusion when the EEOC withdrew its appeal.

Special Master

Sally G. Cimini
Leech Tishman Fuscaldo & Lampl
525 William Penn Place, 28th Floor
Pittsburgh, Pennsylvania 152191707
(412) 261-1600

Co-Counsel:

Amy E. Dias
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
(202) 879-3939

Maria Cristina Sharp
FedEx Ground
1000 FedEx Drive
Moon Township, Pennsylvania 15108
(412) 262-7311

Amanda M. Fisher
United Steelworkers
60 Boulevard of the Allies, Room 807
Pittsburgh, Pennsylvania 15222
(412) 562-2567

Daniel M. Kovalik
United Steelworkers of America
60 Boulevard of the Allies, Room 807
Pittsburgh, Pennsylvania 15222

(412) 562251

Opposing Counsel:

M. Jean Clickner
Equal Employment Opportunity Commission
1000 Liberty Avenue
William S. Moorhead Federal Building, Suite 1112
Pittsburgh, Pennsylvania 15222
(412) 395-5843

Ronald L. Phillips
Equal Employment Opportunity Commission
Baltimore Field Office
City Crescent Building, 3rd Floor
10 S. Howard Street
Baltimore, Maryland 21201
(410) 209-2737

Deborah A. Kane
Equal Employment Opportunity Commission
William S. Moorhead Federal Building
1000 Liberty Avenue, Suite 1112
Pittsburgh, Pennsylvania 15222
(412) 395-5866

Melanie M. Peterson
U.S. Equal Employment Opportunity Commission
801 Market Street, Suite 1300
Philadelphia, Pennsylvania 19107
(215) 440-2689

Anne N. Occhialino
Equal Employment Opportunity Commission
131 M Street, N.E.
Washington, D.C. 20507
202-663-4724

Intervenor Plaintiff

Bridget Ferris
Morgan & Paul, PLLC
409 Broad Street, Suite 270
Sewickley, Pennsylvania 15143
(412) 259-8375

Gregory G. Paul
Morgan & Paul, PLLC
618 Beaver Street, Suite 202
Sewickley, Pennsylvania 15143
(412) 259-8375

10. *Priests For Life v. U.S. Dep't of Health & Human Servs.*, 772 F.3d 229 (DC Cir. 2014) (Judges Rogers, Pillard, Wilkins), *vacated and remanded sub nom. Zubik v. Burwell*, 136 S. Ct. 1557 (2016); *Diocese of Cheyenne v. Sebelius*, No. 14-21, 2014 WL 11511658 (D. Wyo. May 23, 2014), appeal pending. (U.S. District Court for the District of Wyoming: Judge Skaydahl).

Several nonprofit Catholic organizations brought suit against the federal government for regulations issued under the Patient Protection and Affordable Care Act. They alleged that the implementation of the regulations violated their religious freedom rights under the First Amendment to the U.S. Constitution, the Religious Freedom Restoration Act, and other laws. I represented the nonprofit Catholic organizations, and the cases are ongoing.

Co-Counsel:

David T Raimer
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
(202) 879-3939

Noel J. Francisco
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
(202) 879-3939

Paul J Hickey
Hickey & Evans
1800 Carey Avenue, Suite 700
P.O. Box 467
Cheyenne, Wyoming 82003-0467
(307) 634-1525

Opposing Counsel:

C Levi Martin
US Attorneys' Office
P O Box 668
Cheyenne, Wyoming 820030668
(307) 7722124

Julie Saltman
United States Department of Justice
20 Massachusetts Avenue, N.W. Suite 7111
Washington, D.C. 20530
(202) 532-4252

16. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

See Response to Question 15 above. I have not performed lobbying activities on behalf of clients and therefore have never registered as a lobbyist.

17. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not formally taught any courses. On a few occasions, I appeared as a guest lecturer at two local law schools, George Mason University and Georgetown University.

18. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I may receive deferred income from my law firm, Jones Day, but the amount and date of that anticipated income is unknown to me at this time. I have not made any arrangements to be compensated in the future for any financial or business interest.

19. **Outside Commitments During Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service? If so, explain.

No.

20. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items

exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See my SF-278 as provided by the Office of Government Ethics.

21. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

My statement of net worth is attached.

22. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

I am unaware of any present conflict of interest. During the nomination process, I consulted with the U.S. Department of Justice's ethics office.

I will continue to consult the U.S. Department of Justice's ethics office if confirmed and will recuse myself from any matter that requires recusal.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

I will consult with the U.S. Department of Justice's ethics office if confirmed and will recuse myself from any matter that requires recusal.

23. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional work load, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

I estimate that, while at Jones Day, I devoted approximately 200 hours per year (and sometimes more) to engaging in pro bono work. For example, as described in my response to Question 15, I personally litigated pro bono cases in both trial courts and the courts of appeals on behalf of indigent criminal defendants and prisoners (see entry 15.1). I also regularly served as the supervising partner for Jones Day associates in the handling of their pro bono matters. In addition, my representation of Catholic Charities and other Catholic organizations in the *Zubik*-related litigation was pro bono.