

## **PROFESSIONAL STATUS**

Admitted to practice in Maryland, Pennsylvania, the District of Columbia, the United States Supreme Court, most United States Circuit Courts of Appeals and several District Courts.

## **PROFESSIONAL EXPERIENCE**

### **The Pennsylvania State University School of Law – University Park, PA**

#### Director, Civil Rights Appellate Clinic and Professor of Law

**2008-Present**

Conceptualized and directs the school's first appellate clinic focusing on civil rights issues before the United States Supreme Court and the federal appellate courts. Highlights of the Clinic work are attached in an Addendum

#### Associate Dean/Director of Clinics and Experiential Learning

**2014-2019**

- Appointed as the school's first Associate Dean for Clinics and Experiential Learning in 2017
- Appointed as the school's first Director of Experiential Learning in 2014
- Responsible for Supervising 19 attorneys and 4 support staff
- Fostered the creation of 4 new experiential learning opportunities – Veterans and Servicemembers Clinic, The Entrepreneur Assistance Clinic, The Intellectual Property Clinic, and the Criminal Indigent Defense Clinic
- Continue to be an expert on civil rights for major media outlets including New York Times, Bloomberg Law, BNA Daily Labor Reporter, The Washington Post, Huffpost Politics, The Alliance for Justice, casetext.com and others.
- Teaches advanced courses in employment discrimination and the employment relationship

### **Lawyers' Committee for Civil Rights Under Law – Washington, D.C.**

**2001-2008**

#### Deputy Director of Legal Programs/Employment Discrimination Project Director

Supervised the national litigation work of the Lawyers' Committee and directed the Employment Discrimination Project

- Revitalized the litigation department through strategic hires and adoption of a "litigation team" approach
- Developed an active docket of high-profile cases, intensified the Committee's disparate

impact work, and enhanced the Committee's existing *amicus* work serving as counsel of record for the Lawyers' Committee in numerous Supreme Court cases

- Directed significant policy initiatives vital to the Committee's mission, including the *amicus* efforts in *Ledbetter v. Goodyear Tire and Rubber Co., Inc.* and the Committee's efforts in the passage of the Lilly Ledbetter Fair Pay Act
- Reinforced the prominence of the Lawyers' Committee through professional presentations and articles
- Managed the recovery of significant fees and costs on an ongoing basis

**Harvard Law School – Cambridge, MA**

**2006-2008**

Clinical Supervisor

Through an innovative program, working in conjunction with law school faculty, supervised clinical students placed with the Lawyers' Committee for Civil Rights

**United States Commission on Civil Rights – Washington, D.C.**

**2000-2001**

Acting Deputy General Counsel

Worked directly with the General Counsel and Staff Director to supervise the legal department

- Lead Attorney for Commission's Investigative report *Voting Irregularities in the 2000 Presidential Election*
- Project Director for Commission Report – *The ADA: Accommodating All?*
- Project Director for The Commission's *Crossing Borders* Project
- Supervised all employment-related litigation

**Southern Methodist University School of Law – Dallas, TX**

**1997-2000**

Clinical Supervisor/Lawyering Instructor

In conjunction with other faculty, developed the civil clinic docket and assigned cases to student attorneys, while simultaneously serving as an instructor in the first-year lawyering skills course

- Supervised student attorneys in all aspects of case handling, including litigation.
- Developed course materials
- Addressed, in the clinic and classroom, issues of professional responsibility and institutional reform

**Kaplan, Heyman, Greenberg, Engelman & Belgrad, P.A. – Baltimore, MD**

**1992-2000**

Partner/Of Counsel

Was made a partner and led the firm's employment law group, practicing exclusively on labor and employment issues including sexual harassment and Americans with Disabilities Act claims; employment torts and discrimination; non-competition issues; employee contracts and severance agreements; management training; and compensation

- Directed federal and state litigation for diverse clients, ranging from individuals to multinational corporations
- Served as, Special Counsel to the Baltimore County Public Schools to resolve issues surrounding relocation of long-tenured educators within the school system
- Designed and implemented sexual harassment prevention, drug testing, and ADA compliance programs for corporate clients
- Developed curriculum and presented regional educational programs on a wide range of labor and employment issues

**Maryland Commission on Human Relations – Baltimore, MD**

**1988-1992**

General Counsel

As chief legal advisor to state agency, supervised 11-member legal department, prosecuting claims of unlawful discrimination and providing training to staff and public

- Significantly increased damages recovered by legal department on behalf of victims of discrimination
- Instituted actions to eliminate backlog of litigation cases, insuring aggressive prosecution of pending cases
- Orchestrated passage of five amendments significantly strengthening Maryland law prohibiting unlawful discrimination in employment, housing, and access to public accommodations
- Conducted frequent seminars on employment, housing, and public accommodations discrimination for business, legal, and legislative communities

**Equal Employment Opportunity Commission –Washington, DC**

**1987-1988**

Appellate Attorney

Litigated employment discrimination cases before most federal appellate courts and provided analysis regarding the EEOC's position on issues pending before the federal appeals courts and the United States Supreme Court

**NAACP National Headquarters – Baltimore, MD**

**1986-1987**

Assistant General Counsel

Litigated employment discrimination cases, coordinated the employment discrimination litigation efforts of NAACP's national office, and provided training through conferences and seminars to various NAACP branches in employment discrimination law

**Pennsylvania Human Relations Commission – Pittsburgh, PA**

**1982-1986**

Assistant General Counsel

Litigated employment discrimination cases before Pennsylvania Human Relations Commission, the state courts and in federal courts; managed regional legal department and provided training to staff and public

**Allegheny County Bureau of Air Pollution Control – Pittsburgh, PA**

**1979-1982**

Special Assistant County Solicitor

Developed enforcement strategies designed to bring violating companies in conformance with the requirements of County Air Pollution Control laws. Strategies implemented included consent order negotiation, participation in administrative hearings, and litigation before the state and federal courts.

## **EDUCATION**

Duquesne University School of Law, Pittsburgh, PA; Juris Doctor Degree; Class Rank: 20/108

Shippensburg State College, Shippensburg, PA; Bachelor of Arts Degree; Cum Laude

## **HONORS/AFFILIATIONS**

Penn State Law Recognition as a founding member of the school's Minority Mentor Program

Appellate Attorney of the Week Profile by The National Law Journal

Wasserstein Fellow, Harvard Law School

Lawyers Committee for Civil Rights Certificate of Special Recognition

Leadership Conference on Civil Rights' Dorothy I. Height Chairperson's Award of Special Merit

Jessie S. Heiges Distinguished Alumnus Award, Shippensburg State University

Most Valuable Employee's Award for the State of Maryland

Governor's Citation for Excellence and Outstanding Commitment to the Citizens of the State of Maryland

Carnegie Medal for Outstanding Heroism

## SELECTED TESTIMONY/ARTICLES/PRESENTATIONS

### TESTIMONY

February 25, 2021 testified before the Pennsylvania House Labor and Industry Committee at a hearing regarding House Bill 262 which would prohibit employers from taking adverse employment action against employees or prospective employees because they refuse to participate in an “invasive medical test” or vaccination, or if they inform others about the “right to refuse.”

September 17, 2014, testified before the U.S. House Education and the Workforce Committee, Subcommittee on Workforce Protections, at a hearing on three bills addressing employment discrimination: H.R. 4959, “EEOC Transparency and Accountability Act,” H.R. 5422, “Litigation Oversight Act of 2014,” and H.R. 5423, “Certainty in Enforcement Act of 2014.

June 24, 2014, at the request of Congress briefed capitol hill legislative staff on Protecting Older Workers Against Discrimination Act (S. 1391, HR 2852), a piece of bipartisan legislation aimed at restoring legal standards that had been in place before the Supreme Court decided *Gross v. FBL Financial Services* (2009) and *University of Texas Southwestern Medical Center v. Nassar* (2013).

June 7, 2011, testified before U.S. House Committee on Education and Labor at a hearing to examine H.R. 3721, the Protecting Older Workers Against Discrimination Act.

November 17, 2010, a witness before the United States Equal Employment Opportunity Commission addressing “How the Lower Courts Are Interpreting the Supreme Court’s *Gross* Decision and the Implications for Age Discrimination Claims.”

May 5, 2010, testified before U.S. House of Representatives Committee on Education and Labor Subcommittee on Health, Employment, Labor & Pensions on “HR 3721: Protecting Older Workers Against Discrimination Act.”

October 7, 2009, testified before U.S. Senate Judiciary Committee at a hearing on “Workplace Fairness; Has The Supreme Court Been Misinterpreting Laws designed to protect American Workers From Discrimination?”

November 20, 2008, a witness before the United States Equal Employment Opportunity Commission on the use of criminal histories as an employment screening device.

February 12, 2008 testified before the House Subcommittee on Health, Employment, Labor, and Pensions Committee regarding mandatory arbitration of employment disputes.

April 19, 2006, a witness before the United States Equal Employment Opportunity Commission on race and color discrimination in employment.

## SELECTED PRESENTATIONS

October 19, 2021 - Co-panelist with John Malcolm from the Federalist Society in a program **A Supreme Court Review of the Supreme Court 2021-22 Term** discussing the Supreme Court's ending term and previewing the upcoming term.

October 9, 2021 - Featured Co-panelist with The Honorable Judge Bernice Donald, United States Court of Appeals: Sixth Circuit at the Alabama State Bar Labor and Employment Conference discussing the topic of **Implicit Bias, Motivation and Causation**.

June 16, 2020 - Co-panelist with Professor Sandra Sperino in an ABA sponsored webinar on **Comcast, Babb and Causation Confusion**.

June 6, 2020 - Co-panelist with The Honorable Judge Brooks Smith, Chief Judge United States Court of Appeals: Third Circuit on a program sponsored by Pennsylvanians For Modern Courts on **The Appellate Process**.

March 5, 2020 - Co-Panelist and Moderator of the Program ***A Take on the Term with Erin Murphy and Sarah Harrington*** discussing the Supreme Court's ending term and previewing the upcoming term.

November 9, 2018 - Co-Panelist and Moderator of the Program ***A Take on the Term with Paul Clement*** discussing the Supreme Court's ending term and previewing the upcoming term.

March 28, 2018 - Co-Panelist in the Penn State Law Program ***#Me-Too - In the Workplace: Where Should Arbitration End and Litigation Begin?***

December 14, 2018 - A featured presenter along with presidential historian Doris Kearns Goodwin at the celebration of the signing of the Age Discrimination in Employment Act ***The Age Discrimination in Employment Act at 50: The Overlooked Chapter of LBJ's Civil Rights Legacy***. The program was sponsored by AARP and the Lyndon B. Johnson School of Public Affairs.

June 24, 2016 - ***There's No Smoking Gun: Proving Discrimination and Retaliation By Pretext***, a featured presenter at 2016 Annual Convention of the National Employment Lawyers Association.

October 13, 2016 - ***Summary Judgment: The Bad, The Ugly ... And The Good***, a featured before the National Employment Lawyers Association.

February 2015 - ***If You Can't Beat Them On The Field, Change The Rules Of The Game***, a featured presenter at the Impact Fund regarding the EEOC and its enforcement activities.

October 16, 2014 - ***SCOTUS Employment and Labor Docket***, a panelist on a Bloomberg Review of Supreme Court cases impacting employment and labor.

June 28, 2014 - ***Retaliating Against Third Parties After Thompson v. North American Stainless Under Title VII & The ADAAA***, featured presenter at the National Employment Lawyers Association's Annual Convention on the topic of Retaliating Against Third Parties After *Thompson v. North American Stainless* Under Title VII & The ADAAA.

July 18, 2013 - ***Fisher and Future Affirmative Action***, featured presenter for an ALI-ABA program where the Supreme Court's Fisher and Michigan cases were discussed.

June 22, 2012 - ***Navigating The Supreme Court's Shifting Standards of Causation In Employment Discrimination Cases***, a featured presenter at the National Employment Lawyers Association's 23rd Annual Convention.

September 17, 2011 - ***Case Analyses: Law School's Civil Rights Appellate Clinic takes on FMLA and Veterans' Rights before SCOTUS***, a featured presenter at Penn State Law's Alumni Weekend.

July 19, 2011 - ***Supreme Court Employment Law Update 2011***, a panelist on an ALI-ABA Worldwide Teleseminar.

October 8, 2010 - ***In The Big House and on the Bubble: A Discussion on Mixed Motive, Retaliation, Arbitration, and Issues the Supreme Court May be Reviewing Next!***, The Featured Presenter at the New Mexico Bar Foundation's 2010 Employment and Labor Law Institute.

July 14, 2010 - ***Supreme Court Employment Law Update 2010***, a panelist on an ALI- ABA Worldwide Teleseminar.

June 24, 2010 - ***The Wake of Gross v. FBL Financial Services Inc.***, a panelist at the National Employment Lawyers Association's 21st Annual Convention.

March 13, 2010 - ***Other Considerations for Succeeding on Appeal.***, a panelist at the National Employment Lawyers Association program on effective appellate advocacy in employment Cases.

February 19, 2010 - ***Diversity and Inclusion***, a panelist at the University of Memphis Law Review Symposium on Labor and Employment Law Today: Evolution or Revolution.

July 15, 2009 - ***Supreme Court Employment Law Update 2009***, a panelist on an ALI- ABA Worldwide Teleseminar.

***Retaliation Redux***, June 24, 2009, a panelist at the National Employment Lawyers Association's 20<sup>th</sup> Annual Convention.

March 4, 2009 - ***The Supreme Court's Employment Docket***, a panelist at the Southern Methodist

University Higher Education Employment Symposium.

August 20, 2008 - *Employee Selection Procedures in the New Millennium*, a panelist on an ABA Worldwide Teleseminar.

July 9, 2008 - *U.S. Supreme Court Update: Employment Law*, a panelist on the ALI-ABA National Teleseminar.

April 21, 2008 - *The Business Case for and Implementation of Diversity Programs*, a panelist at the American Association of Affirmative Action annual conference.

April 5, 2007 - *The Supreme Court on Employer Liability for Discrimination: Coca-Cola Bottling v EEOC*, a panelist at the National Press Club in a program sponsored by The American Constitutional Society for Law and Policy.

## PUBLICATIONS

*Babb v. Wilkie, Continues to Muddy the Waters*, The ABA Civil Rights Social Justice Section, Member O-ed, July 23, 2021.

Barbara Lindemann & Paul Grossman, *Employment Discrimination Law* (Fourth Edition), Chapter Monitor for *2010 Cumulative Supplement to Employment Discrimination Law*.

*Gross v. FBL Financial Services – Oh So Gross!*, University of Memphis Law Review, Volume 40, Book 4, p. 681 (Summer 2010).

*Michigan Proposal 2006-02's Effect on Public Institutions' Ability to Strive for Racial Diversity*, submitted to the State of Michigan February 7, 2007.

*Tennessee v. Lane: Winning the Battle, Losing the War*, University of Tennessee College of Law's Journal of Law & Policy, Volume 1, No. 4, p. 551 (Summer 2005).

*The Continuing Relevance of Race-Conscious Remedies and Programs in Integrating the Nation's Workforce*, Hofstra Labor & Employment Law Journal, Volume 22, No. 1, p.81 (Fall 2004).

*Hire the Rainbow*, Legal Times, Vol. XXVII, No. 16, week of April 19, 2004.

*Voting Irregularities in Florida During the 2000 Presidential Election*, Chapter 1 "Voting System Controls and Failures," Chapter 2 "Responsibility Without Accountability," United States Commission on Civil Rights, June 2001.

*Sharing the Dream: Is the ADA Accommodating All?*, Chapter 3 "Judicial Trends in ADA Enforcement," The United States Commission on Civil Rights, October 2000.