

MICHAEL L. FOREMAN

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PROFESSIONAL STATUS

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

PROFESSIONAL EXPERIENCE

The Pennsylvania State University Dickinson School of Law – University Park, PA

Director, Clinics and Experiential Learning

2014-Present

- Appointed as the school's first Director of Experiential Learning
- Implemented best practices for all clinics
- Fostered the creation of two new clinics – Veterans and Servicemembers Clinic and The Entrepreneur Assistance Clinic

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, and teaches an advanced level employment discrimination course. Highlights of the clinic and other work include:

- Counsel for Petitioner in *Coleman v. Maryland Court of Appeals*, Supreme Court Docket No. 10-1016 decided March 20, 2012.
- Counsel for Petitioner on petitions for certiorari in *Smith v. Wilson*, No. 12-1491, *Carder v. Continental Airlines, Inc.*, No. 10-1546 and *Gregory v. Dillard's Inc.*, No. 09-322.
- Counsel for *amici* before the United States Supreme Court in the following:
 - *Mach Mining v. EEOC*, No. 13-1019
 - *Nassar v. Southwestern Medical Society*, No. 12-484
 - *Maryland v. King*, No. 12-207
 - *Mount Holly v. Mt. Holly Gardens Citizens in Action, Inc.*, No. 11-1507
 - *Vance v. Ball State University*, No. 11-556
 - *Wal-Mart Stores Inc. v. Dukes*, No. 10-277
 - *Rent-A-Center, West, Inc. v. Jackson*, No. 09-497
 - *Staub v Proctor Hospital*, No. 09-400
 - *Lewis v. City of Chicago*, No. 08-974
 - *Gross v. FBL Financial Services, Inc.*, No. 08-441
 - *Ricci v. DeStefano*, No. 08-328
 - *14 Penn Plaza LLC v. Pyett*, No. 07-581
- Counsel on numerous cases in the United States Courts of Appeals.
- Instructor for *Intensive Introduction to American Law*, a three week course at Yeditepe University, Istanbul, Turkey July 2011.

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.

Michael L. Foreman, page 2

- 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
Clinical Supervisor

2006-2008

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.
Acting Deputy General Counsel

2000-2001

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

- Lead Attorney for Commission's Investigation of Voting Irregularities in 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
Clinical Supervisor/Lawyering Instructor

1997-2000

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.

Law Firm of Kaplan, Heyman, Greenberg, Engelman & Belgrad, P.A. – Baltimore, MD
Partner/Of Counsel

1992-2000

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 general public.

- Significantly increased damages recovered by legal department on behalf of victims of discrimination by 100%.
- 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.

National Association for the Advancement of Colored People - 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 Health Department 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

Appellate Attorney of the Week Profile by The National Law Journal December 2011
Wasserstein Fellow, Harvard Law School 2009 – recognizes dedicated service in the public interest
Leadership Conference on Civil Rights' Dorothy I. Height Chairperson's Award of Special Merit 2008
Jessie S. Heiges Distinguished Alumnus Award, Shippensburg State University 1998

Michael L. Foreman, page 4

Most Valuable Employee's Award for the State of Maryland -- 1991
Governor's Citation for Excellence and Outstanding Commitment to the Citizens of the State of Maryland -1991
Carnegie Medal for Outstanding Heroism -- October 1987

RECENT SELECTED TESTIMONY/ARTICLES/PRESENTATIONS

TESTIMONY

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.

PRESENTATIONS

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

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

Retaliating Against Third Parties After Thompson v. North American Stainless Under Title VII & The ADAAA,

Michael L. Foreman, page 5

June 28, 2014, 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.

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

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

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

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

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

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

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

Other Considerations for Succeeding on Appeal., March 13, 2010, a panelist at the National Employment Lawyers Association program Effective Appellate Advocacy in Employment Cases.

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

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

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

The Supreme Court's Employment Docket, March 4, 2009, a panelist at the Southern Methodist University Higher Education Employment Symposium.

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

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

Sprint v. Mendelsohn: Its Impact on Employment Discrimination Litigation, May 13, 2008, a panelist on a webinar sponsored by the National Employment Lawyers Association.

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

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

Michael L. Foreman, page 6

Evolving Constitutional and Statutory Challenges to Inclusiveness Practices in Employment, March 9, 2007, a panelist at the Inter-American Development Bank's seminar on Advancing Equity: Putting Policy into Practice.

Legal Ethics – Selected Ethical Issues in Pro Bono Practice, March 1, 2007, a panelist at the 2007 Pro Bono Institute Annual Seminar and Forum on Corporate In-House Pro Bono.

PUBLICATIONS

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.