Andrew G.I. Kilberg

Partner

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Andrew Kilberg is a partner in Gibson, Dunn & Crutcher's Washington, D.C. office, where he practices in the firm's litigation department. A member of the firm's Labor and Employment, Administrative and Regulatory, and Appellate and Constitutional Law practice groups, Andrew has significant experience challenging onerous federal regulations, advising on regulatory proposals, and defending agency enforcement actions and investigations. He has represented clients in federal district and appellate courts and before the U.S. Supreme Court, as well as before various agencies.

Andrew's private practice and government experience has touched a broad array of federal and state agencies. He has engaged with all major federal agencies in the labor and employment field, including the Wage and Hour Division, Employee Benefits Security Administration, Pension Benefit Guaranty Corporation, Federal Retirement Thrift Investment Board, National Labor Relations Board, Equal Employment Opportunity Commission, Occupational Safety and Health Administration, and Mine Safety and Health Administration. His matters at the Firm and government experience have also involved the Department of Justice, Federal Trade Commission, Federal Communications Commission, Federal Deposit Insurance Corporation, Office of the United States Trade Representative, and Department of Housing and Urban Development, among others.

Andrew's litigation matters have covered wage and hour, ERISA, restrictive covenants, occupational safety and health, anti-discrimination, whistleblower, and labor relations issues, among other subjects. In addition to his work in court, Andrew regularly authors comment letters submitted to federal agencies, including the Department of Labor, the Federal Trade Commission, and the Federal Communications Commission. He also has written position statements submitted to the National Labor Relations Board and the Equal Employment Opportunity Commission, and represented clients in highly sensitive agency investigations and audits.

Andrew also has provided extensive advice and counseling on a wide range of subjects, including federal and state non-compete and vaccine-related rules and litigation, the False Claims Act, government contracting (including suspension and debarment issues), anti-discrimination and anti-retaliation matters, labor relations, and ERISA issues.

Between 2019 and 2021, Andrew served as Counselor to Secretary Eugene Scalia at the United States Department of Labor. In that role, he advised the Secretary and Deputy Secretary on a wide range of matters and led teams on important regulatory and other projects for the Office of the Secretary, including matters concerning environmental, social, and governance investing, proxy voting, the U.S.-Mexico-Canada Agreement, independent contractor status, apprenticeships, religious accommodation, anti-discrimination, and the coronavirus pandemic. He also was responsible for coordination with several other executive branch agencies.

Lawdragon recognizes Andrew in its "500 Leading Corporate Employment Lawyers"

Capabilities

Labor and Employment
Administrative Law and Regulatory Practice
Appellate and Constitutional Law
Employee Retirement Income Security Act (ERISA) Litigation
Litigation
Sports Law

Credentials

Education

University of Virginia - 2014 Juris Doctor
University of Cambridge - 2011 Master of Philosophy
Princeton University - 2010 Bachelor of Arts

Admissions

Virginia Bar
District of Columbia Bar

Clerkships

US Supreme Court, Hon. Anthony M. Kennedy, 2015 - 2016
US Court of Appeals, 4th Circuit, Hon. J. Harvie Wilkinson III, 2014 - 2015

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guide (2024-2027), and *Law360* previously recognized him as a “Rising Star” in Telecom (2019).

Representative litigation matters include:

- *Zimmer Radio of Mid-Missouri Inc. v. FCC*, --- F.4th ---, 2025 WL 2056854 (8th Cir. July 23, 2025): Vacated a Federal Communications Commission rule first adopted in 1999 that prohibited broadcasters from owning more than one top-four-rated television station in any geographical market, arguing the case and obtaining a unanimous decision.
- *Ryan, LLC v. FTC*, 2024 WL 3879954 (N.D. Tex. Aug. 20, 2024): Set aside the Federal Trade Commission’s rule banning nearly all non-compete agreements in the United States.
- *Coalition for Workforce Innovation v. Micone*, No. 21-cv-130 (E.D. Tex.): Representing the Financial Services Institute in challenge to the Department of Labor’s 2024 independent contractor rule.
- *Murray v. UBS Securities, LLC*, No. 22-660 (U.S.), and No. 20-4202 (2d Cir. 2022): Twice vacated judgment against UBS in a Sarbanes-Oxley whistleblower action in the U.S Court of Appeals for the Second Circuit, and represented UBS in defending the first decision before the U.S. Supreme Court.
- *Chamber of Commerce of the U.S.A. v. Dep’t of Labor*, 885 F.3d 360 (5th Cir. 2018), and No. 24-10890 (5th Cir.): Vacated the Department of Labor’s “fiduciary” rule, among the most controversial regulations ever adopted in the financial services industry, and representing the Securities Industry and Financial Markets Association and Financial Services Institute in challenging the agency’s attempt to reimpose the “fiduciary” rule.
- *Century Aluminum Co. v. OSHA*, No. 17-1546 et al. (8th Cir.): Negotiated rulemakings to amend the Occupational Safety and Health Administration’s beryllium standard for general industry, resulting in voluntary dismissal of challenge to the standard.
- *Prometheus Radio Project v. FCC*, No. 17-1107 et al. (3d Cir.): Represented the National Association of Broadcasters in defending the Federal Communications Commission’s repeal or modification of certain restrictive and outdated local media ownership rules.
- *Mozilla Corp. v. FCC*, No. 18-1051 et al. (D.C. Cir.): Represented CTIA–The Wireless Association in defending the Federal Communications Commission’s repeal of its “net neutrality” regime.
- *Cedar Band of Paiutes v. U.S. Dep’t of Hous. & Urban Dev.*, No. 4:19-cv-30-DN (D. Utah): Obtained a preliminary injunction against enforcement of HUD mortgagee letter on behalf of an American Indian tribe and its instrumentalities.
- Won arbitration for the NFL Players Association against the NFL Management Committee that resulted in reinstatement of full disability benefits for a retired player.

Representative pro bono matters include:

- *McDaniel v. Syed*, 115 F.4th 805 (7th Cir. 2024): Obtained reversal of summary judgment in important prisoner rights case, arguing the appeal.
- *Synod of Bishops of the Russian Orthodox Church Outside of Russia v. Belya*, No. 22-824 (U.S.) and *Belya v. Kapral*, No. 21-1498 (2d Cir.): Wrote *amici curiae* briefs on behalf of religious liberty scholars in support of interlocutory review of important religious autonomy issues.
- Counsel of record in appeal in the U.S. Court of Appeals for the Fifth Circuit from Board of Immigration Appeals’ denial of asylum to a family of Central American immigrants.

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- *Biel v. St. James School*, No. 17-55180 (9th Cir.): Counsel of record for *amici curiae* Church of God in Christ, Inc. and the Union of Orthodox Jewish Congregations of America in support of a Catholic school in significant ministerial exception case.

Before joining Gibson Dunn, Andrew clerked for U.S. Supreme Court Justice Anthony M. Kennedy and Judge J. Harvie Wilkinson III of the U.S. Court of Appeals for the Fourth Circuit.

He received his law degree from the University of Virginia School of Law, where he was a member of the Order of the Coif and served as Articles Development Editor of the *Virginia Law Review*. He received an M. Phil. in Historical Studies from the University of Cambridge and was graduated *magna cum laude* with an A.B. in History from Princeton University.

Andrew is a member of the District of Columbia and Virginia bars, and he is admitted to practice before the U.S. Supreme Court, U.S. Courts of Appeals for the Second, Third, Fourth, Fifth, Seventh, Eighth, Ninth, Eleventh, and D.C. Circuits, the U.S. District Court for the Eastern District of Virginia, the Supreme Court of Virginia, and the District of Columbia Court of Appeals.

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