

Rising Star: Gibson Dunn's David Fotouhi

By Juan Carlos Rodriguez

Law360 (June 11, 2021, 3:02 PM EDT) -- David Fotouhi recently rejoined Gibson Dunn & Crutcher LLP after working in the highest legal echelons of former President Donald Trump's U.S. Environmental Protection Agency, where he led teams of attorneys working on game-changing regulations and litigation, earning him a spot among the top environmental law practitioners under age 40 honored as Law360 Rising Stars.

HIS BIGGEST CASE:

As a deputy general counsel, principal deputy general counsel and finally acting general counsel during the Trump administration, Fotouhi had a front-row seat to the most high-profile regulation changes and litigation at the EPA. He said he counts his work on the Navigable Waters Rule — which rescinded an Obama-era definition of "waters of the U.S.," a key Clean Water Act term that influences regulatory jurisdiction — as some of his most important work.

The Obama administration's rule was criticized by industry groups and some states as being too broad and giving the federal government too much power. The Trump administration, heeding those criticisms, rolled back the 2015 rule and came up with its own, more narrow approach. Both versions have been challenged in several courts.

"At one point, we had almost three dozen cases challenging either the Obama-era definition of that rule, the Trump administration's repeal of that rule or the new definition that came out in 2020," he said. "We played a pretty integral role in developing the legal rationale for the repeal rule and then the new definition in 2020. So it started with developing that rationale and then marshaling the arguments in order to defend the rule against the challenges."

HIS PROUDEST MOMENT:

Fotouhi said his parents are immigrants and that his proudest



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 2021

David Fotouhi
 Gibson Dunn

Age: 36
 Home base: Washington, D.C.
 Position: Partner
 Law school: Harvard Law School
 First job after law school: Clerk for Eighth Circuit Judge Raymond Gruender

moment — so far — of being an attorney is the day he took the oath of office at the EPA and promised to uphold the U.S. Constitution.

"I remember my first day, coming in and not really knowing where I was, and kind of figuring out where to go. And then I took the oath, and that was a big thing for me. No one in my family is an attorney, so it was a big deal for me to not just take a new job as a lawyer, but to go serve in the government. And I took that pretty seriously," he said.

WHY HE'S AN ENVIRONMENTAL ATTORNEY:

Fotouhi, who was at Gibson Dunn before his stint at the EPA and has since rejoined the firm as a partner in its environmental litigation and mass tort practice group, said he gained an interest in environmental law in law school and took two years of administrative law, which is a foundational component of environmental law, as well as land use law and local government law.

"I had an inclination that this might be an area where I may want to practice one day," he said. "Back in 2009, I was a summer associate at Gibson Dunn and had the chance to try a few environmental projects and really enjoyed them. So when I returned to the firm, I sought out that work and sought out the people in that group and it sort of snowballed. And by the time I left the firm to go to EPA, it was the entirety of my practice at that time."

WHAT MOTIVATES HIM:

Fotouhi said an important part of being an attorney, whether it's on behalf of private clients or the government, is making clients' problems his own.

"They need you to help chart their way through a really complex set of regulations or case law or whatever it is. And that is motivating when you've got a client who's putting their trust in you and saying, 'You're going to help me get through this.'"

"And the environment affects everyone, so it's a really tangible set of issues. It makes environmental law and practicing in this field really rewarding and interesting," he added.

— As told to Juan Carlos Rodriguez

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2021 Rising Stars winners after reviewing more than 1,400 submissions. Attorneys had to be under 40 as of April 30, 2021, to be eligible for this year's award. This interview has been edited and condensed.