

Appellate MVP: Gibson Dunn's Helgi Walker

By Nathan Hale

Law360, Miami (November 19, 2015, 6:32 PM ET) -- Helgi C. Walker, co-chair of Gibson Dunn's administrative law and regulatory group, has continued building her reputation as a go-to counsel for high-stakes appellate challenges of federal agency actions, leading cutting-edge litigation for a range of industries in the last year and earning herself a spot among Law360's Appellate MVPs.

Drawing upon her experience working for the Federal Communications Commission and as an associate White House counsel in the George W. Bush administration, Walker has counted Ford Motor Co., CTIA-The Wireless Association, the National Association of Broadcasters, the U.S. Chamber of Commerce and mortgage lender PHH Corp. among her clients in recent and ongoing litigation.

Also a member of Gibson Dunn's appellate and constitutional law group, Walker shows no signs of slowing down as regulation becomes an increasingly important part of business' strategy and legal focus.

"Expanding regulation is a systemic phenomenon," Walker told Law360. "Regulation may not be as sexy an issue as a new statute that Congress passes, but the scope and the scale of federal regulation today probably has a more direct impact on our nation's economy than statutory law. It's going to be an increasingly important part of litigation strategy for American businesses, whether small or large."

Walker helped Ford defeat an appeal by the U.S. Equal Employment Opportunity Commission in a case against the automaker regarding telecommuting rights under the Americans With Disabilities Act, in one of the most significant employment cases of the year.

After a Sixth Circuit panel's initial rejection of a summary judgment ruling for Ford, Walker led a team that secured a rare en banc rehearing of the case. In April 2015, the full circuit found that physical attendance is an essential function of most jobs, so companies can decline to offer telecommuting arrangements to workers to accommodate a disability without violating the law — allowing countless employers to breathe a sigh of relief.

A leading expert on Internet regulation — she has argued and won Comcast Corp.'s and Verizon Communications Inc.'s recent challenges to the FCC's "net neutrality" rules — Walker is currently representing CTIA in a pending suit to overturn the agency's latest ruling on the subject.

MVP



Walker is also lead counsel for the National Association of Broadcasters in a pending D.C. Circuit appeal of new FCC restrictions on certain sharing agreements between local broadcasters, and she has been hired recently by the Chamber to appeal the FCC's new interpretation barring certain calls to consumers under the Telephone Consumer Protection Act. That case is of particular importance to businesses because of numerous significant class actions that have been brought under the law, Gibson Dunn noted.

Walker said she is particularly excited about her work on a first-of-its-kind appeal of a \$109 million penalty the Consumer Financial Protection Bureau imposed on PHH over a mortgage insurance kickback scheme. In August, she won a stay of the penalty order on behalf of PHH. The case could have far-reaching effects as it also challenges the constitutionality of the CFPB's authority.

"This case involves core administrative law principles that arise in the context of purported consumer protection. There are so many different industry sectors regulated by this one agency," Walker said.

"The structure of the agency makes the director accountable to almost nobody," she added, noting it allows one person to wield tremendous power over a huge swath of the economy.

Walker said that she has gained great insight from her government work, which she has been able to use to her advantage in private practice.

"Agencies are busy, pressed for time, and focused more on policy than law, which is what I've been trained to think about," she said.

At the FCC, she was sometimes surprised to see the conversation focus exclusively on administrative policy and not statutory authority, Walker said.

"I wondered why no one ever asked if Congress authorized the agency to do what it was trying to do," she said. "Those are the kinds of questions that we raise in the cases we bring."

Walker also traces her career success back to her father, who recently retired as a professor at the University of Virginia School of Law, describing him as an encouraging figure.

"For women lawyers, having a father who viewed them as perfectly capable of being a lawyer, if they wanted to be one, is a big explanatory 'success' factor for many of us," she said.

--Editing by Edrienne Su.

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