

FRED B. JACOB

EXPERIENCE

SOLICITOR, NATIONAL LABOR RELATIONS BOARD,
Washington, D.C.

(2018 – present)

Chief legal advisor and consultant to the National Labor Relations Board. Provide legal and strategic support on complex matters concerning the Board's operations, such as case processing, federal court litigation, rulemaking, Congressional relations, federal ethics laws, open government, and administrative law and procedure.

Advise the Board on novel questions of law regarding the Board's authority and powers under the National Labor Relations Act, its general operations, its case handling and rulemaking functions, and administrative procedure, and on major questions concerning the initiation and maintenance of NLRB litigation in the district courts, courts of appeals, and U.S. Supreme Court.

As the Board's in-house counsel, provide guidance on the Sunshine Act, Administrative Procedure Act, federal human resources and equal employment opportunity law, the Ethics in Government Act, Federal Register publication process, federal appropriations law, the Freedom of Information Act, and the Privacy Act, among others.

Participate in meetings of the full Board, meetings between the Board and the General Counsel, and similar legal and policy discussions with leaders throughout the agency and serve as liaison to the General Counsel and other offices of the Board, the Department of Justice, other federal agencies, and, as appropriate, Congress.

SOLICITOR, FEDERAL LABOR RELATIONS AUTHORITY,
Washington, D.C.

(2014 – 2018)

Counseled FLRA Presidential leadership, including Authority Members, the Federal Service Impasses Panel, and the General Counsel, on substantive labor and procedural issues arising under the Federal Service Labor-Management Relations Statute.

Represented the agency in all mission-related labor litigation in the federal courts, including the Supreme Court and courts of appeals, defending against statutory, regulatory, and Constitutional challenges.

Served as the Designated Agency Ethics Official, Chief Freedom of Information Act Officer, legal representative in EEO and defensive employment litigation, and the Senior Agency Official for Privacy, managing each of those programs agency-wide.

DEPUTY ASSISTANT GENERAL COUNSEL,
NATIONAL LABOR RELATIONS BOARD,
Appellate and Supreme Court Litigation Branch, Washington, D.C. (1997 – 2014)

As Deputy Assistant General Counsel, Supervisor, and Attorney in the NLRB's appellate litigation branch, managed, supervised, and drafted hundreds of briefs, motions, and pleadings and presented dozens of oral arguments in circuit court cases running the full gamut of federal labor law under the NLRA.

Wrote petitions for (and oppositions to) rehearing and rehearing *en banc*, filed motions for injunctive relief in the courts of appeals, prepared memoranda to the Board recommending whether to seek *certiorari*, and contributed to briefs before the United States Supreme Court in opposition to petitions for *certiorari*.

Drafted Board decisions for Chairman Wilma Liebman and Board Member R. Alexander Acosta, working on high-profile cases involving *Weingarten* rights in the non-unionized workplace, *stare decisis* in Board decision making, and the effect of unfair labor practices on decertification petitions.

Participated in field details to the Board's Manhattan Regional Office and held office in the National Labor Relations Board Professional Association as shop steward and General Counsel-side Grievance Chair.

UNITED STATES SENATE, COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Labor Policy Office, Senator Edward M. Kennedy,
Washington, D.C. (2004)

On detail from the NLRB, provided advice to the committee's minority staff on legislation and regulation concerning national labor and employment policy, drafted updates for the Senator on serious labor disputes occurring nationwide, and liaised with constituents, business organizations, unions, and interest groups to hear their concerns.

MORGAN, LEWIS & BOCKIUS, LLP, Washington, D.C. (1995 – 1996)
Associate, Labor and Employment Section

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT (1994 – 1995)
Law Clerk to the Honorable Karen J. Williams, Orangeburg, S.C.

DC COMICS (1993)
Legal Affairs Department, Legal Intern, New York, NY

EDUCATION

COLLEGE OF WILLIAM AND MARY, J.D. (May 1994)

Activities: Research Editor, *William and Mary Law Review*; Founding Board Editor, *William and Mary Journal of Women and the Law* (now known as *William and Mary Journal of Race, Gender, and Social Justice*); Staff Member, 1 *William and Mary Bill of Rights Journal* (Spring 1992); Honor Council, Associate Justice; Chair, Honor Code Revision Committee

BRANDEIS UNIVERSITY, B.A., Politics and American Studies (May 1991)

Activities: Vice-President & Junior Class Senator, Student Senate; Student Member, Brandeis Public Safety Committee on the Use of Firearms by Campus Police; Vice-President, Model United Nations; Financial Director, Universicon Comic and Science Fiction Convention

ACADEMIC APPOINTMENTS

GEORGE WASHINGTON UNIVERSITY LAW SCHOOL, (2022 – present)
Professorial Lecturer in Law, Washington, D.C.

COLLEGE OF WILLIAM AND MARY SCHOOL OF LAW, (2014 – 2019, 2001 – 2006)
Adjunct Professor of Law,
Washington, D.C., Williamsburg, Virginia

GEORGETOWN UNIVERSITY LAW CENTER, (2011 – 2013)
Adjunct Professor of Law, Washington, D.C.

COURSES TAUGHT

Labor Law, Law 6266, George Washington University Law School (Fall 2022, 2023, Spring 2025)

Independent Legal Writing, Law 6656, George Washington University Law School (Fall 2024)

DC Externship Seminar, College of William & Mary School of Law (Fall 2014-2019)

Low Wage and Excluded Workers: Their Rights and Challenges (Experiential Learning Seminar),
Georgetown University Law Center (Fall 2011-2013)

Labor Law, Law 407, College of William & Mary School of Law (Spring 2001-2006)

LAW REVIEW ARTICLES

The National Labor Relations Act, the Major Questions Doctrine, and Labor Peace in the Modern Workplace, 65 B.C. L. REV. 1381 (2024),

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4535075

Black Hole of Administrative Law: The Threat of an Ever-Expanding Major Questions Doctrine to the Judiciary, 97 ST. JOHN'S L. REV. (forthcoming 2024) (symposium essay),

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4609194.

Even the Federal Government Can't Beat the Bluebook, 27 GREEN BAG 2D 117 (2024),

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4709643.

OTHER WRITINGS

The Major Questions Doctrine and Legislative Experimentation, NOTICE AND COMMENT BLOG, YALE JOURNAL ON REGULATION (Mar. 3, 2023), <https://www.yalejreg.com/nc/the-major-questions-doctrine-and-legislative-experimentation-by-fred-b-jacob/>

THE DEVELOPING LABOR LAW (8th ed., 2022 & 2023 Supp.; 7th ed., 2020 & 2021 Supp.), Contributing Editor.

NATIONAL LABOR RELATIONS BOARD: 80 YEARS OF PROTECTING EMPLOYEE RIGHTS (1935-2015), Co-Editor and Contributor (2015).

Supreme Court and Federal Courts Update, 2015-2016, 2016 ABA Section of Labor and Employment Law, Midwinter Meeting of the Federal Sector Labor and Employment Law Committee.

Selected Court Decisions in NLRB Cases by John H. Ferguson, 2009-2014 Midwinter Meetings of the Committee on the Development of the Law Under the National Labor Relations Act, Contributor.

Court of Appeals Decisions in NLRB Cases, 2006-2013 Robert Fuchs Labor Law Conferences, Suffolk University Law School, Boston, MA, Contributor.

SELECTED PRESENTATIONS AND SPEECHES

American Bar Association Section on Administrative Law and Regulatory Practice, Fall Conference, *A Funny Thing Happened on the Way to the Forum: Venue and Case Assignment Battles in the Modern Administrative State*, Virtual Conference (Moderator, Nov. 7, 2024).

The Federalist Society, Labor and Employment Law Practice Group, *A Discussion of Labor Law: Is the Taft-Hartley Act Being Interpreted as Written?*, Webinar (Panelist, Aug. 1, 2024),

<https://fedsoc.org/events/a-discussion-of-labor-law-is-the-taft-hartley-act-being-interpreted-as-written>.

Cornell School of Industrial and Labor Relations, Center for Applied Research on Work, *Worker Protections at Risk: The Supreme Court Abandons Chevron Deference*, Webinar (Panelist, July 24, 2024), <https://www.youtube.com/watch?v=pJJH8vivM60>.

American Bar Association Section on Administrative Law and Regulatory Practice, Spring Conference, Academic Workshops, Washington, DC (Commenter, May 9, 2024).

St. John's University Law School, Symposium on *West Virginia v. EPA* and the Future of the Administrative State, *The Black Hole of Administrative Law*, Queens, NY (Oct. 13, 2023).

Virginia Bar Association, Section on Labor and Employment Law Annual Meeting, "NLRB Update," Reston, VA (Sept. 23, 2023).

Labor Relations Advisory Committee, "Litigation Trends at the NLRB," Washington, D.C. (Nov. 4, 2022).

Virginia Bar Association, Section on Labor and Employment Law Annual Meeting, "NLRB Update," Charlottesville, VA (Sept. 10, 2022).

Midwinter Meeting of the ABA Section on Labor and Employment Law, Federal Sector Committee on Practice and Procedure Under the NLRA "Update from NLRB Solicitor and Executive Secretary," San Juan, P.R. (Mar. 6, 2020).

Department of Defense Employee Labor Relations Symposium, "FLRA Case Law Update," Southbridge, MA (July 31 – Aug. 1, 2018).

Society of Federal Labor & Employment Relations Professionals 45th Annual Symposium on Federal Labor & Employee Relations, "FLRA Case Law Update," Arlington, VA (May 18, 2018).

Society of Federal Labor & Employment Relations Professionals 43rd Annual Symposium on Federal Labor & Employee Relations, "FLRA Case Law Update," Arlington, VA (Apr. 29, 2016).

Midwinter Meeting of the ABA Section on Labor and Employment Law, Federal Sector Committee, "SCOTUS and Federal Courts Update," Washington, D.C. (Feb. 17, 2016).

Robert Fuchs Boston Labor Law Conference, "The Benefit of Your Bargain: When Can an Employer Take Unilateral Action?," Boston, MA, Moderator (Oct. 19, 2006).

American Constitution Society, D.C. Lawyer Chapter, "The Employee Free Choice Act: Union Organizing in the 21st Century," Washington, D.C., Moderator (Mar. 25, 2004).

LAW AND POPULAR CULTURE PRESENTATIONS

American Bar Association, Section on Labor and Employment Law, 18th Annual Labor and Employment Law Conference, *Labor Law in Popular Culture: A Historical Perspective*, New York, NY (Nov. 15, 2024).

Law on Film Podcast, *Matewan*, Featured Guest (forthcoming Fall 2024).

Law on Film Podcast, *Norma Rae*, Featured Guest (Jan. 2024),
<https://podcasts.apple.com/us/podcast/law-on-film/id1683056140>.

Comic-Con International, Comics Arts Conference, *Look for the Union Label: Comics as Instruments of Organized Labor in Mid-Century America*, San Diego, CA (July 20, 2023).

PROFESSIONAL MEMBERSHIPS

Fellow, COLLEGE OF LABOR AND EMPLOYMENT LAWYERS

AMERICAN BAR ASSOCIATION, Section on Labor and Employment Law
Member, Committee on Practice and Procedure under the NLRA, Committee on the Development of the Law under the NLRA
Public Co-Chair, Federal Sector Committee (2015-2019)
Track Coordinator for the 2017 and 2018 Section Annual Meetings

SMALL AGENCY COUNCIL, General Counsel Forum, Co-Chair (2017-2018)

SELECTED SERVICE AND ACTIVITIES

National Labor Relations Board: Member, Diversity, Equity, Inclusion, and Accessibility Labor Management Forum (2022-present); Member, DEIA Retention Subcommittee (2023- present); Presenter, NLRB New Field Agents' Training (2023); Speaker, Summer Intern Orientation Program (2018-present; 2009-2014); Member, Committee on the Use of Videoconference Technology in NLRB Hearings During the Pandemic (2020-2022); Member, Senior Executive Service Performance Review Board (2020-2021); Speaker, Honors Attorney Orientation Program (2018-present); Presenter, NLRB Administrative Law Judges' Conference (2019); Speaker on Employee Engagement, NLRB Supervisors & Managers Conference (2019); Instructor on Recent NLRB Developments, NLRB Field Examiners' Conference (2019); Appellate and Supreme Court Litigation Branch Liaison to the Office of the Chief Information Officer (2010-2014); Co-Chair, Appellate and Supreme Court Litigation Branch Internship Program (2005-2014); Union Representative, Technology Partnership (1997-2004); Organizer, Appellate Court Branch Bluebook Project (1997).

Federal Labor Relations Authority: Member, Chairman's Leadership Team (2014-2018); Chair, FLRA Washington, D.C. Summer Internship Program (2016-2017); Member, Office of Personnel Management, Senior Executive Service Qualifications Review Board (2016, 2017); Member, FLRA Technology Committee; Presenter, FLRA Ethics Training (2015-18); Presenter, FLRA Privacy Training (2016-2018); Organizer, FLRA Brown Bag Speakers' Lunches (2014-2018).

RESEARCH ASSISTANCE

Research Assistant to Professor Davison M. Douglas (Summer 1992)

Research Assistant to Professor Stephen Wermiel, for *Justice Brennan: Liberal Champion* (2010) (Summer 1992)

Research Assistant, Center for Complex Systems, Professor Arthur Wingfield, Memory and Cognition Lab, Brandeis University (1990-1991)

BAR MEMBERSHIPS

District of Columbia Bar, Active Member; Virginia State Bar, Associate Member; Member, Bars of the U.S. Supreme Court, and the Courts of Appeals for the Second, Fourth, Fifth, Seventh, Ninth, Tenth, and District of Columbia Circuits