

MICHAEL J. HAYES

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**Non-Academic
Full-Time Work
Experience**

**U.S. DEPARTMENT OF LABOR (DOL), OFFICE OF LABOR-
MANAGEMENT STANDARDS (OLMS)**

August 2013 to January 2017

Director & Deputy Assistant Secretary

Appointed by President Obama to serve as the only political appointee in and the highest-ranking officer of OLMS, a federal agency within DOL that employs more than 200 employees, including more than 100 investigators, throughout the country. OLMS enforces and administers the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), a statute that primarily promotes union democracy and financial integrity in private sector labor unions through standards for union officer elections and safeguards (including audits and investigations by OLMS, and criminal prosecutions by US Attorneys) for union assets. Additionally, the LMRDA promotes labor union and labor-management transparency through annual reporting and financial disclosure requirements for labor unions and their officials, and reporting obligations for employers, labor relations consultants, and surety companies. OLMS also carries out DOL's responsibilities under the Federal Transit Act by ensuring that fair and equitable arrangements protecting mass transit employees are in place before the release of Federal transit grant funds.

As Director, oversaw all the above-described activities of OLMS employees, and was regularly involved in managing personnel (including evaluation, training, discipline, hiring, engagement and other activities). In addition, as part of an OLMS Voluntary Compliance Partnership (VCP) program with international and national unions, to work together on improving their local unions' and other affiliates' compliance with the LMRDA, held meetings of an hour or more with top union officers, in most cases more than once, to discuss issues with their affiliates and means of promoting and bettering compliance. As part of the VCP program, also prepared and made presentations to union officers and employees about LMRDA obligations and how to meet them. Also prepared and made presentations on the LMRDA to union leaders from other nations.

In March 2016 the Federal Register published a Final Rule of OLMS, signed by me, that revised revising the U.S. government's Interpretation of the "Advice" Exemption in Section 203(c) of the LMRDA, so as to narrow that interpretation and thereby increase annual public reporting by employers who retain "labor relations consultants" to "persuade" employees on whether to unionize, and to increase public reporting by such consultants. The Final Rule specified in detail what kinds of "persuasive activities" had to be reported and what information was to be included in the reports. Such reporting had been discussed as desirable, because of the growth of the "persuader" industry and how little reporting it did because of a broad advice exemption, since at least 1980.

While acknowledging that many employees in DOL, especially employees in OLMS's Division of Interpretation, etc., worked on this Rule and the scores of pages of explanatory material accompanying it, I also reviewed and contributed to

all drafts of the Rule and related materials from fall 2013 to its March 2016 publication, and met with and otherwise provided key input to political and career employees in DOL, the U.S. Department of Justice (DOJ) and the White House as the Rule, and its “rollout” after publication, were discussed and executed. Also met with DOL and DOJ career and political legal employees, provided research and other assistance to them, and reviewed and shared comments incorporated into briefs, as DOJ lawyers defended the Rule against multiple challenges in litigation. Similarly provided assistance to DOL and DOJ lawyers who were defending a State’s challenge to an OLMS decision, which I had helped draft and I signed, denying certification of the labor relations of a transit agency (and thereby blocking a grant to that agency) on the ground that a state law and its effects were inconsistent with the requirements of a federal statute.

SHERMAN, DUNN, COHEN, LEIFER & YELLIG, P.C., Washington, D.C.
September 1989 to June 1995

Associate. Worked for labor law firm that serves as General Counsel for the Electrical Workers and the AFL-CIO's Building & Construction Trades Department. Advised clients on all areas of labor & employment law, including NLRA, LMRDA, employee benefits, safety and health, and discrimination. Also engaged in trial-level and appellate litigation before federal courts and administrative bodies. Also performed considerable legislative work. Received offer of partnership from firm, to have commenced in September 1995.

NATIONAL LABOR RELATIONS BOARD, Washington, D.C.
September 1988 to August 1989

Counsel, Board Member Devaney's Staff. Reviewed appeals of unfair labor practice and representation cases. Reviewed the case's record and the parties' briefs, researched the legal issues involved, and recommended disposition of the case to Member Devaney. Represented Member Devaney at the subpanel meeting where the case was voted on. Wrote draft of Board's decision, accompanied by memo explaining the bases for the decision.

Law Professor Experience

UNIVERSITY OF BALTIMORE SCHOOL OF LAW, Baltimore, Maryland
August 1998 to June 2007; May 2008 through December 2012; January 2017 to Present

Associate Professor of Law (2003-2012, 2017-); Assistant Professor of Law (1998-2003)

Have taught law school courses in employment law, employment discrimination, labor law, collective bargaining, Torts and INC (interviewing, negotiating and counseling). In addition, have taught Labor Law to undergraduate and graduate students at the National Labor College in Silver Spring, Maryland, and taught Comparative Discrimination Law in the Summer Abroad program in Aberdeen, Scotland. Served as the American Director of the Summer Abroad program from 2005 to 2012. In the Spring 2017 semester, I am teaching Torts in the Law of the United States program to LL.M students from other countries. In the summers of 2010 and 2011 I taught Contracts and Academic Skills to undergraduates in the

C.H. Houston Scholars program sponsored by the Law School Admission Council.

2006 Outstanding Teaching Award for Full-Time faculty (from faculty)
Saul, Ewing Award for Excellence in Transactional Teaching (2002)(from faculty)
2010-11, 2005-2006, 2001-2002 and 1999-2000 James May Awards for Teaching Excellence (from students)
2005-2006 H. Mebane Turner Service Award

THOMAS JEFFERSON SCHOOL OF LAW, San Diego, CA
January 2013 through May 2013

Taught Torts II course, which included vicarious liability, strict liability, products liability, misrepresentation (intentional & negligent), defamation and nuisance.

ALBANY LAW SCHOOL, Albany, NY
July 2007 to May 2008

Visiting Professor of Law. Taught law school courses in Labor Law, Collective Bargaining, Torts and Client Interviewing & Counseling

SOUTHERN ILLINOIS UNIVERSITY SCHOOL OF LAW, Carbondale, IL
August 1995 to May 1998

Assistant Professor of Law. Taught law school courses in employment discrimination, labor law, employment law and transactional skills (*i.e.*, client interviewing and counseling, negotiating, and drafting legal documents). Also taught public sector labor relations course in university's Masters of Public Administration program.

Co-Winner, Class of 1998 Honor Award (from graduating students)
Winner, Class of 1997 Honor Award
Co-Winner, 1997 Excellence in Teaching Award (from faculty)
Received research grant from Fund for Labor Relations Studies (1996)

Education

UNIVERSITY OF VIRGINIA LAW SCHOOL, Charlottesville, VA
J.D. degree, May 1988

Articles Editor, Virginia Law Review (1987-88)
Hardy Cross Dillard Scholar (full scholarship)
Faculty Award for Academic Excellence
Labor Relations Award
GPA: 3.53 Class Rank: Top 5%

CORNELL UNIVERSITY, Ithaca, NY
B.S. degree, June 1985

Major: Attended the New York State School of Industrial and Labor Relations
GPA: 4.0 Class Rank: 1/166

Publications
Books

Co-author (with Bruce Feldacker), LABOR GUIDE TO LABOR LAW (5th ed. 2013 Cornell University Press/ILR Imprint)
Co-Editor (with Robert Pleasure), THE CAMPAIGN GUIDE: ORGANIZING THE CONSTRUCTION INDUSTRY (BCTD, AFL-CIO 2013, 2004) & Annual Supplements (prior to 2013)

Articles

Leaving Maryland Workers Behind: A Comparison of State Employee Leave Statutes, 9 U. Md. J. of Race, Religion, Gender & Class 19 (2009)
Critique of the Veil of Fair Representation, 36 U. Balt. Law Forum 25 (2007)
That Pernicious Pop-Up, The Prima Facie Case, 39 Suffolk L. Rev. 343 (2006)
Improving Security Through Reducing Employee Rights, 10 Jus Gentium 55 (2004)
Let Unions Be Unions: Allowing Grants of Benefits During Representation Campaigns, 5 U. Pa. J. Empl. & Lab. L. 259 (2003)
After "Hiding the Ball" Is Over: How the NLRB Must Change Its Approach to Decisionmaking, 33 Rutgers L. J. 523 (2002)
Has Wright Line Gone Wrong? An Examination of the National Labor Relations Board's Approach to Pretext Cases, 65 Mo. L. Rev. 883 (2000)
Employer Liability for Supervisors' Intentional Torts: The Uncertain Scope of the "Alter Ego" Exception, 86 Ill. Bar. J. 154 (March 1998)(with Quinn Broverman)
Student Note, *Whatever Happened to the Right to Know?: The Right of Access to Government-Controlled Information Since Richmond Newspapers*, 73 Virginia Law Review 1111 (1987)

Student Employment

SHEARMAN & STERLING, New York, NY
May to August 1987

Summer Associate. Worked first half of the summer for the Compensation & Benefits team, and second half with the Bank Finance team. Received offer to return as a regular associate.

DEPARTMENT OF THE TREASURY, OFFICE OF THE GENERAL COUNSEL, Washington, D.C.

May to August 1986

Law Clerk. Worked half of the summer for the division of Banking and Finance, the other half for the division of Administration, Legislation and Regulation.

U.S. SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES, Washington, D.C.

September to December 1984

Intern. Conducted legislative research and wrote memoranda for the Democratic staff on a variety of issues, including tax reform, youth unemployment and pension law. Also handled legislative correspondence, and served as a liaison for some constituent groups.

WVBR-FM

Ithaca, New York

Managing Editor, News Department 1983-84

News Director, Summer 1983

Selected Presentations

- “OLMS: The Velvet Fist Inside the Iron Glove,” Workshop, national LCC [AFL-CIO Lawyers] Conference (2014)
- “Advice to Labor Lawyers Teaching Labor Law in Law Schools,” Workshop, national LCC [AFL-CIO Lawyers] Conference (2006-2007, 2009-2013)
- “Labor Law Developments Relevant to Construction Industry Unions,” national Building Trades Attorneys Conference (1994-2000, 2002-2007, 2009-2013)
- “U.S. Supreme Court’s 2008-2009 Labor/Employment Docket,” Maryland Labor & Employment Relations Association (2008)
- Testimony before Maryland House and Senate in favor of Maryland Flexible Leave Act (2008)
- “Workplace E-mail and Internet Use by Employers, Employees and Unions,” New York Capital Chapter of the Labor & Employment Relations Association (2008)
- Co-keynote speaker, with former FMCS chief Kenneth Moffatt, at the Annual Association of Labor Relations Agencies conference, speaking on the long-term effects of the PATCO strike (2006)
- Weekly “Ask the Professors” columnist in *Working* section of The Baltimore Sun (2005)
- “Security and Employee Rights” presentation to European-American Consortium on Legal Education, Rotterdam, The Netherlands (2003)
- - “The Law on Alternate Organizing Techniques,” (with co-panelists Judy Scott and Charles Cohen) at Seminar on Traditional Labor Law sponsored by the NLRB and the Industrial Relations Research Association (2002)

Organizations

Member, New York and District of Columbia Bars
American Bar Association, and Sections on Labor and Employment Law, and Legal Education.
Association of American Law Schools, and Section on Labor and Employment Law
Prettyman-Leventhal American Inn of Court (1989-90)

Honors & Awards

American Jurisprudence Awards for Criminal Law (1985) and Administrative Law (1986)
Presidential Scholar, Cornell University, 1985
Degree Marshal, Cornell University, 1985
Daniel Alpern Prize, 1985
Phi Kappa Phi Honor Society, 1985
Bernard P. Lampert Scholarship, 1983
Frank B. Doft ILR Award, 1982
National Merit Scholarship

References

Available on request