



## Erin Dougherty Foley

Partner

Chicago

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## Biography

### Practices & Sectors

#### Labor & Employment

Biometric Privacy  
Compliance &  
Litigation

Employment Litigation

Workplace  
Counseling &  
Solutions

Retail

Social Media

Health Law

### Specialty Teams

#### Global Privacy & Security (GPS) Team

Privacy Compliance

Incident Management

Erin Dougherty Foley is a partner in the Labor and Employment Practice Group in Seyfarth Shaw LLP's Chicago office. Ms. Foley's litigation experience includes federal and state court cases involving the defense of employment discrimination claims (Title VII, Americans with Disabilities Act, Family and Medical Leave Act), wrongful discharge, retaliation, sexual harassment and state whistleblower matters. She regularly litigates client matters through both successful summary judgment motions and favorable jury verdicts.

Ms. Foley's recent litigation successes include a defense verdict following a four-day jury trial involving allegations of race and gender discrimination; summary judgment affirmed on appeal by the Seventh Circuit in a case involving claims of race discrimination and retaliation; a *de minimis* jury verdict following a seven-figure demand in a breach of contract action alleging unpaid sales commissions; a verdict for the defense following a five-day jury trial involving retaliation and sexual harassment claims; the dismissal of a matter involving the denial of a bonus payment under the Illinois Wage Payment & Collections Act (summary judgment affirmed on appeal); a verdict for the defense of an applicant's "failure to hire" claim, alleging religious discrimination (defense verdict at trial; affirmed on appeal).

Ms. Foley has extensive experience counseling human resource personnel on all aspects of the employment relationship, including leave and absence management, reasonable accommodations, performance management, investigating employee complaints, workplace violence concerns; discipline and discharge. Ms. Foley takes a practical and preventative approach to client advice with an eye toward avoiding litigation altogether, with an emphasis on issues involving the digital workplace, social media, privacy and data protection. Ms. Foley also conducts training on a wide range of employment matters (including leave administration and workplace investigations) for clients and continuing legal education programs.

Ms. Foley also manages Seyfarth's employment law counseling blog, the Employment Law Lookout, which publishes articles designed to deliver timely and practical "things to know" to legal and HR professionals. She also serves on the Firm's Lawyer Development Committee and regularly provides advice and counseling to the Firm's pro bono clients.

Ms. Foley has completed all of the courses which comprised Seyfarth's Retail University and she is now a certified member of Seyfarth's Retail Industry Client Team.

Prior to beginning her legal career, Ms. Foley spent several years as a divisional human resources manager for an international manufacturing and distribution company. This experience gives her the ability to better understand the challenges faced by today's employers

and to provide a practical perspective and resolution to clients' workplace problems.

## Education

- J.D., Chicago-Kent College of Law, Illinois Institute of Technology (1999) with honors
- M.S., Loyola University, Chicago (1994) Industrial Relations
- B.S., Marquette University (1987)

## Admissions

- Illinois

## Courts

- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. District Court for the District of Colorado
- U.S. District Court for the Northern District of Illinois (Trial Bar)
- U.S. District Court for the Northern and Southern Districts of Indiana
- U.S. District Court for the Eastern and Western Districts of Michigan
- U.S. District Court for the Northern and Southern Districts of Ohio
- U.S. District Court for the Eastern District of Wisconsin

## Affiliations

- American Bar Association (Labor & Employment Law Section - Committee on Employee Rights and Responsibilities)
- Chicago-Kent College of Law Mentoring Program

## Representative Engagements

### ***Trial Victories***

- *Eboda v. PNC Bank, National Assoc.* (E.D. Pa. 2019) (defense verdict in federal jury trial involving race and gender discrimination claims).
- *Private Client Litigation* (M.D. Fla. 2014) (*de minimis* jury verdict following seven-figure demand in a breach of contract action for allegedly unpaid commissions).
- *Cottrell v. Costco Wholesale Corporation* (D. Minn. 2012) (defense victory in federal jury trial involving sexual harassment and retaliation claims).
- *Xodus v. The Wackenhut Corporation* (N.D. Ill. – 2009) (trial victory for religious discrimination, failure to hire – employer verdict following bench trial) *aff'd* 09-3082, 2010 U.S. App. LEXIS 17917, (7th Cir. 8/27/10).
- *Levock v. Costco Wholesale Corporation* (E.D. Mich. – 2006) (trial victory for wrongful

termination, breach of contract – directed verdict for employer prior to the submission to jury).

### **Summary Judgment Wins**

- *Brown v. Board of Trustees of the Univ. of Illinois* (Seventh Circuit 2016) (affirming summary judgment awarded on claims of race discrimination and retaliation under Title VII).
- *Myers v. Howmedica Osteonics Corporation* (Dist. Montana – 2016) (summary judgment awarded on claim alleging violation of Montana’s Wrongful Discharge from Employment Act).
- *Burke v. Zurich American Insurance Company* (Second District Court of Appeals, Illinois – 2012) (affirming summary judgment in matter involving the Illinois Wage Payment and Collection Act).
- *Esparza v. Costco Wholesale Corporation* (N.D. Illinois – 2011) (summary judgment granted on the basis of judicial estoppel, after discovery that plaintiff failed to disclose litigation in her earlier bankruptcy proceedings).
- *Laskey v. Zurich American Insurance Company* (E.D Mich. – 2011) (summary judgment awarded in FMLA retaliation/interference and age (ELCRA) discrimination claims).
- *Crear-Price v. Board of Trustees of the Univ. of Illinois* (N.D. Ill. 2010) (summary judgment awarded in age discrimination claim).
- *Bailey v. Pregis Innovative Packaging* (N.D. Ind. – 2009) (summary judgment awarded in FMLA interference claim) *aff’d*, 09-3539, 2010 U.S. App. LEXIS 6909 (7th Cir. 4/2/10) (opinion by J. Posner).
- *Henderson v. Men’s Wearhouse* (N.D. Ill. – 2008) (summary judgment awarded in race discrimination and retaliation claims).
- *Schioppi v. Costco Wholesale Corporation* (D. Colo. – 2007) (summary judgment awarded in breach of contract and gender discrimination/retaliation claims).

### **Presentations**

- "Using Biometric Technology Wisely: How to Avoid Becoming The Next Target In A Lawsuit Concerning The Collection and Retention of Biometric Data," Webinar, presented by Seyfarth Shaw LLP (November 16, 2017)
- "The Top Ten Things that Should Be Keeping HR Managers Awake at Night," presentation for a private client (September 8, 2016)
- Panelist, "Social Media and the Workplace: What Every Employer Needs To Consider," Seyfarth Shaw Breakfast Briefing (March 22, 2016)
- Employment Law 101 – Illinois Chamber of Commerce (March 2016)
- Data Privacy: Ethics and Law – Northwestern University Roundtable on Talent Analytics and Workforce Science (October 2015)
- Panelist, "Social Media: Pitfalls and Legal Issues in the Workplace," Illinois Chamber of Commerce Webinar (July 30, 2015)
- Social Media in the Workplace, multiple presentations for private clients (2013-2014)
- "10,000 Small Business Scholars Program," Employment Law Clinic – GoldmanSachs

(2012-2014)

- “Job Descriptions: So Many Reasons to Love Them,” Presentation for the IASB/IASA/IASBO, Joint Annual Conference (2012).
- “Job Descriptions, Interviewing and Hiring: Best Practices,” presentation for the Metropolitan Chicago Healthcare Counsel (2012)
- “Job Descriptions and Recruiting,” presentation for a private client (2012)
- “Litigating, Defending, and Preventing Employment Discrimination Cases: Practice Updates for the Illinois Human Rights Act,” (panel discussion 2011)
- “Conducting Effective Workplace Investigations,” presentations for a private client as well as the Center for Competitive Management (2010)
- “Strategic Use of Summary Judgment in Employment Law,” presentation for the Illinois State Bar Association (2010)
- “Employment Law Update,” presentation for the Chicago Area Health Care Recruiters (2010, 2009 and 2008)
- “Avoiding Sexual Harassment Claims,” presentation for Robert Morris College (2009 and 2008)
- “Conducting workplace investigations,” presentation for The Lorman Group (2008)
- “Employment Law Update,” presentation for The Lorman Group (2008)
- “Who wants to be an HR Millionaire?” (DuPage County SHRM) (2008)
- “Defending cases against the EEOC (agency and federal court practice),” presentation for the Illinois Institute of Continuing Legal Education (2008)
- “Labor & Employment Law Issues for Non-Profit Organizations,” presentation for The Dollinger Group (2007)
- “Proper Use of Protective Orders,” presentation for the Illinois State Bar Association (2007)
- “Employment Law Update,” presentation for The Lorman Group (2008)
- “Who wants to be an HR Millionaire?” (DuPage County SHRM) (2008)
- “Defending cases against the EEOC (agency and federal court practice),” presentation for the Illinois Institute of Continuing Legal Education (2008)
- “Labor & Employment Law Issues for Non-Profit Organizations,” presentation for The Dollinger Group (2007)
- “Proper Use of Protective Orders,” presentation for the Illinois State Bar Association (2007)

## Publications

- Quoted in, “The Yelp Issue,” *Human Resource Executive* (February 25, 2016)
- Quoted in, “Should a Worker be Fired for Calling Her CEO Stingy?,” *SHRM* (February 24, 2016)
- Managing Editor, *Employment Law Lookout*, Seyfarth Shaw LLP Workplace Counseling blog
- *Authentication in Evidence of Electronically Stored Information*, Publication and

Presentation, Mid-Winter Meeting, ABA Section of Employment Law, Employee Rights And Responsibilities Committee (2014)

- [“Massachusetts Supreme Judicial Court Recognizes Associational Disability Discrimination Under Massachusetts Law,”](#) *One Minute Memo*, Seyfarth Shaw LLP (July 23, 2013)
- Chapter Editor, “Problems In Health Care Law 10th edition,” *Jones & Bartlett publishers* (2012)
- Co-Author, “The Legal Ambiguities of Social Media,” *LRP Publications* (May 29, 2012)
- Chapter Editor, *BNA’s Family and Medical Leave Act Treatise* and yearly Supplement/updates (2006-2009)