



2016 IN REVIEW

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Friends and Colleagues:

We are pleased to share with you our Year in Review for 2016 — another outstanding year for Mehri & Skalet and the clients we serve.

For over 15 years, we have worked on behalf of those who face injustice across a wide spectrum of issues — securing victories on behalf of women, minorities, and those with disabilities; recovering wages that are rightfully owed; and protecting consumers from unsafe products.

This year we're especially proud to have delivered several historic results for our clients, including the largest-ever recovery (\$20 million) in a sexual harassment class action, on behalf of federal prison workers. We also settled an employment race discrimination class action case with Lockheed Martin for \$22.8 million. In both cases, we're most proud not of the recovery amount, but of the innovative programmatic relief we secured to change the culture of the organizations going forward.

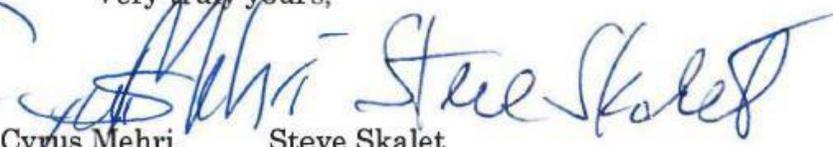
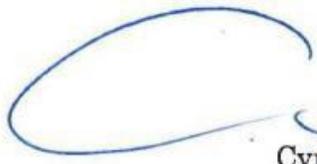
We also want to acknowledge the courage of our clients for coming forward to seek justice in the courts, as well as the hard work and collaboration of our co-counsel who have been invaluable in helping many of our cases reach successful conclusions.

Our victories weren't just about case work: in 2016, we added civil rights leader and legendary jurist U.W. Clemon to our team. You can find out more about this exciting addition to Mehri & Skalet in our "Firm News: New Faces" section.

As for the not-as-new faces, Richard Condit became a partner at the firm while leading our growing whistleblower and *qui tam* practice.

In the year ahead, we look forward to continuing to grow and, working with you, making important impacts on the world around us. Here's to a great 2017!

Very truly yours,



Cyrus Mehri Steve Skalet

2016: Mehri & Skalet By the Numbers

- **3:** Number of years of negotiation and investigation before Mehri & Skalet attorneys settled an historic \$22.8 million settlement with Lockheed Martin in a class action employment race discrimination case
- **12:** Millions of dollars Mehri & Skalet recovered from the Federal Bureau of Prisons on behalf of federal employees in various workers' rights cases
- **14:** Number of African-American head coaches and general managers in the NFL at the start of 2017, the most-ever since the implementation of the Rooney Rule
- **20:** Millions of dollars recovered by Mehri & Skalet attorneys on behalf of federal prison workers in lawsuit against Coleman Federal Correctional Complex, the largest-ever recovery in a sexual harassment class action
- **1963:** Year Mehri & Skalet Of Counsel Judge U.W. Clemon marched with Dr. Martin Luther King, Jr. — just one year after confronting the infamous Eugene “Bull” Connor over Birmingham’s segregation ordinances
- **25,000:** Number of federal workers who joined Mehri & Skalet’s successful case against the federal government for failing to provide on-time pay to “essential workers” during the 2013 government shutdown
- **240,000:** Number of overcharges to customers of Verizon, New Jersey. Mehri & Skalet attorneys achieved a nearly \$5 million settlement on customers’ behalf

NOTABLE RESULTS

Discrimination

- *Ross et al. v. Lockheed Martin Corporation*, No. 1:16-cv-02508-KBJ (D.D.C.)

After three years of investigation and negotiation, Mehri & Skalet settled an employment race discrimination class action with Lockheed Martin for \$22.8 million. The settlement includes innovative programmatic relief aimed at reforming the company's performance management system, groundbreaking roles for the Board of Directors, and the creation of a Workforce Initiatives Council to advance equal opportunity.

- Federal Correctional Complex (FCC) Coleman Hostile Environment Class Action

In an historic sexual harassment class action suit, Mehri & Skalet entered into a settlement agreement in late 2016 on behalf of female federal prison workers at the largest federal correctional complex in the country, located in Coleman, Florida. The settlement provides for payment of up to \$20 million and will bring sweeping changes within the prison. The suit claimed that the Federal Bureau of Prison's (BOP) failed to control sexual harassment of the women by male inmates over more than a decade.

This case stands out in at least two ways:

- This is the largest recovery in a sexual harassment class case ever and one of the largest per capita settlements in any type of employment gender discrimination class action case; and
- Classes of women have only been approved in very few cases litigating hostile environment claims, and this is the only case in which the class was approved for hostile environment claims arising out of an employer's failure to take adequate steps to control sexual harassment by non-employees — in this case, prison inmates.

The settlement was reached after an Equal Employment Opportunity Commission (EEOC) Administrative Judge had certified the class in 2013 and granted summary judgment to the Plaintiffs earlier in 2016 on all but one element necessary to establish liability.

- *Brown et al. v. Medicis Pharmaceutical Corporation*, No. 1:13-cv-01345 (D.D.C.)

Mehri & Skalet settled a class action gender discrimination case against Medicis Pharmaceutical Corporation, Inc. for \$7.15 million on behalf of 225 women who were sales representatives of Medicis, a pharmaceutical company. The U.S. District Court for the District of Columbia approved the settlement after extensive review. Medicis implemented policies and practices that discriminated against female field sales employees, impacting their selection, compensation, promotion, leaves of absence, and termination. In addition, the Court certified the hostile environment class claim of female sales representatives at Medicis, based on claims that the leaders of the company created a workplace culture of systemic sexual harassment. Only a handful of cases in U.S. jurisprudence have achieved certification of gender-based hostile work environment claims.

The 100 women who filed claims received an average of \$44,000 each from the settlement fund, making this one of the largest gender discrimination class action settlements on a per class member basis in history. The settlement also provides for important programmatic relief aimed at improving gender equity for the advancement and compensation of female employees, fostering fair treatment of employees with caregiving responsibilities, and assuring protection against retaliation for employees who may have been subject to discrimination and harassment.

At the final hearing on the case, the Court praised the work of the Mehri & Skalet legal team, saying, “I think your pleadings have been outstanding. I think your presentations to date have been outstanding,” and noting that the lawyers’ work on the settlement was “very laudable.”

Workers’ Rights

- *Roberts et al. v. The TJX Companies et al.*, No. 1:13-CV-13142 (D. Mass.)

In a case filed in the District of Massachusetts, Mehri & Skalet achieved a \$4.75 million settlement on behalf of trainees at Marshalls stores who were improperly deprived of overtime compensation. The court entered the final approval order on September 30, 2016, and awards will be distributed to over 1,500 members of the approved classes.

Consumer Protection

- *Enerson v. Verizon New Jersey Inc.*, No. L-344-13 (Superior Court, Bergen County, NJ)

In 2016, Mehri & Skalet achieved a settlement in a consumer class action against Verizon New Jersey for its practice of wrongfully charging customers for the installation of network interface jacks that were neither expressly requested nor actually installed. This practice violates a New Jersey Board of Public Utilities tariff, which prohibits Verizon from charging customers under these circumstances.

The parties entered into a settlement agreement for the approximately 240,000 alleged overcharges. The settlement amount represents 1.8 times the total amount of the overcharge and the taxes charged on them, amounting to a total settlement of approximately \$4.7 million. Fees, costs, and administration fees for the settlement are all being paid by Verizon New Jersey over and above the recovery to the class. This settlement received final approval and payments have been made to the class. *Cy pres* awards will be made in 2017 for any undistributed funds.

Environmental Justice

- *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, No. 15-MD-02672 (N.D. Cal.)

Mehri & Skalet represents the Cherokee Nation and Eastern Band of Cherokee Indians in connection with allegations that Volkswagen Group and its related entities cheated on emissions tests and deceived their customers. As part of an historic \$14.7 billion settlement, Volkswagen agreed to create a \$2.7 billion mitigation trust account for states and Indian tribes to mitigate the pollution from its vehicles.

Mehri & Skalet worked with the Department of Justice and Environmental Protection Agency to help secure a \$50 million Tribal Allocation Subaccount, ensuring that Indian tribes receive a proportional allocation of the mitigation trust. Tribes will be able to submit funding requests for pollution-reduction projects beginning in late 2017.

Mehri & Skalet emphasized the United States’ obligation to engage with federally recognized Indian tribes on a government-to-government level, and the Cherokee Nation and Eastern Band of Cherokee Indians were recognized as leaders in this effort.

New Matters

Consumer Protection

- *Gambino v. MedStar Georgetown University Hospital*, Case No. 2015-CA-6038 (D.C. Super.)
- *Silver v. Greater Baltimore Medical Center, Inc. et al.*, No. 1:16-CV-3539 (D. Md.)

Mehri & Skalet represents consumers in a proposed class action alleging that two D.C. hospitals overcharge their patients for copies of their own medical records. Hospitals and other care providers received millions of federal tax dollars to convert to electronic medical recordkeeping systems in order to make medical care more cost-efficient and accessible for patients. Despite state and federal laws limiting providers' charges to their reasonable copying costs, Defendants continue to charge patients the same high per-page rates for copies of records that are maintained electronically, are not costly to produce, and no longer need to be manually copied.

In 2015, Plaintiffs won a motion to remand the case to D.C. Superior Court. Plaintiffs are currently engaged in discovery, and a hearing on Plaintiffs' motion for class certification is scheduled for mid-2017.

Mehri & Skalet also represents consumers in a proposed class action alleging that three Maryland hospitals similarly overcharge their patients for copies of their own medical records. The parties have briefed Plaintiff's motion to remand the case to state court, and are awaiting the court's decision.

Whistleblower/False Claims Act (FCA)¹

- Government Background Investigations FCA Whistleblower

Mehri & Skalet represents a veteran security clearance professional who disclosed numerous violations of investigative standards and requirements resulting in incomplete and shoddy background checks. This matter is currently in litigation.

¹ In the interest of protecting our whistleblower clients, we provide only basic information concerning their cases.

- Natural Gas Pipeline Whistleblower

Mehri & Skalet represents a whistleblower who challenged the adequacy of quality assurance and quality control standards and practices used in the inspection of natural gas pipelines. The case is being litigated before the Department of Labor.

- Veterans' Affairs Whistleblower

Mehri & Skalet represents a doctor who blew the whistle on patient care, mismanagement, and corruption issues at a Veterans Affairs medical facility in the New York area. The case is presently being litigated before the Merit Systems Protection Board.

- Financial Services Whistleblower

Mehri & Skalet represents a financial advisor who challenged the misleading information being provided by a major financial institution to its customers. This matter is being investigated by a regulatory agency.

- Matters Under Investigation

In addition to the new matters in our Whistleblower Practice, Mehri & Skalet is investigating potential FCA cases involving government nuclear facilities, foreign medical and food aid, quality of care and billing at several healthcare facilities, disadvantaged business programs, renewable energy facility funding, and environmental issues. We are also investigating several whistleblower retaliation claims as well as securities and tax issues covered by the Securities and Exchange Commission and Internal Revenue Service whistleblower programs.

Ongoing Matters

Workers' Rights

- *Martin et al. v. The United States of America*, No. 13-834C (Fed. Cl.)

In July 2014, Chief Judge Patricia Campbell-Smith of the U.S. Court of Federal Claims denied the United States Government's motion to dismiss in Mehri & Skalet's case challenging its failure to pay essential non-exempt employees minimum wage and overtime compensation when due during the October 2013 government shutdown. In the decision denying the motion to dismiss, Chief Judge Campbell-Smith held that the government violated the Fair Labor Standards Act (FLSA) by paying minimum and overtime wages even one pay period late. The case was conditionally certified as a collective action in 2015 and notice was sent to federal employees affected by the case. About 25,000 employees joined the lawsuit. The parties completed discovery on the remaining issue of whether the government can meet its burden of establishing that it does not have to pay liquidated damages for this FLSA violation and filed cross-motions for summary judgment in 2016.

- Workers' Rights Cases Against the BOP

Mehri & Skalet collected over \$12 million from the BOP on behalf of federal employees in 2016. The cases involved violations of the FLSA, the Back Pay Act, the Privacy Act, contractual violations, violations of Title VII of the Civil Rights Act of 1964, and overturning disciplinary decisions.

In cases at FCC Forrest City in Forrest City, Arkansas and Federal Correctional Institution Fort Dix in Fort Dix, New Jersey, Mehri & Skalet recovered back pay and liquidated damages on behalf of employees who were required to perform work before and/or after their scheduled shifts without compensation.

In a case at FCC Butner in Butner, North Carolina, Mehri & Skalet collected \$1.9 million as a result of a decision that the BOP violated the Privacy Act when it failed to protect sensitive employee information. In another case at FCC Butner, Mehri & Skalet collected over \$3.2 million as a result of the Agency's failure to fairly and equitably assign overtime as required by the collective bargaining agreement.

Sports Law

- *McAdoo v. University of North Carolina at Chapel Hill*, No. 1:14-cv-935 (M.D.N.C.)
- *Arnold v. University of North Carolina at Chapel Hill*, No. 15-CVS-3520 (N.C. Super. Ct.)

Mehri & Skalet is litigating two class action lawsuits — one in federal court and one in state court — against the University of North Carolina (UNC) on behalf of UNC student-athletes who attended the university on athletic scholarships between 1993 and 2011.

The clients allege that for two decades, UNC recruited student-athletes with promises of a legitimate education. Once the student-athletes agreed to attend and enrolled, however, UNC systematically funneled them into bogus classes, depriving them of the education they were promised. In doing so, UNC departed from the “student-athlete” principle and caused its student-athletes substantial injury, entitling them to damages and injunctive relief. One case is pending before the United States District Court for the Middle District of North Carolina. The other was recently dismissed by the General Court of Justice for Mecklenburg County, North Carolina, and is now on appeal.

- Fritz Pollard Alliance

Fourteen years after the release of Johnnie L. Cochran Jr. and Founding Partner Cyrus Mehri’s groundbreaking report, ["Black Coaches in the National Football League: Superior Performance, Inferior Opportunities."](#) Mehri & Skalet continues to promote the achievements of the Rooney Rule, a diverse slate requirement for head coaching and senior football operation jobs, and the [Fritz Pollard Alliance](#) (FPA), an affinity group of NFL minority coaches, scouts, and front-office personnel.

Since 2003, the FPA has spearheaded the hiring of a record number of minority personnel in the NFL, including minority head coaches and general managers. The resulting diversity has brought success to the teams that embraced it: starting in 2007, ten teams that participated in the Super Bowl have had either an African-American or Hispanic general manager or head coach. With the hires of Anthony Lynn and Vance Joseph — head coaches of the Los Angeles Chargers and the Denver Broncos, respectively — we will enter the 2017 NFL season with 14 minority head coaches and general managers, a record number for the league.

- **NFL Special Counsel on Social Responsibility**

The Commissioner of the National Football League (NFL) appointed Cyrus Mehri to serve as Special Counsel on Social Responsibility. In that role, Mehri & Skalet canvassed over a dozen women’s rights organizations and anti-violence groups, and prepared an independent set of recommendations for the leadership of the NFL in a report called “Forward Progress: Gender and the NFL.” Most of these recommendations have been adopted by the NFL.

- **NFL Player Assessment Test**

With the help of Dr. Harold Goldstein of Baruch College and Dr. Ken Yusko of Marymount University, Cyrus Mehri released an innovative new assessment tool that captures the non-physical attributes of a successful NFL player.

The new test, called the Player Assessment Test (PAT), measures approximately 20 characteristics of a successful football player, including “football smarts,” psychological strengths, motivational keys, and learning styles. Unveiled at the 2013 Scouting Combine in Indianapolis and taken by all athletes at the combine, the 50-minute test is designed to “dramatically level the playing field from a socio-economic point of view.” The test is structured to augment — rather than replace — the Wonderlic, the assessment in use since the 1970s, and Mr. Mehri believes that the test will provide coaches and front-office personnel with more comprehensive evaluations of the players, allowing them to make the “best recruiting decisions.” The NFL PAT has been used at the NFL Combine since 2013 to enhance player selection and development.

Discrimination

- **Walmart Pregnancy Discrimination**

Mehri & Skalet represents current and former Walmart workers who have experienced pregnancy discrimination and who claim that Walmart’s pregnancy accommodation policies violate civil rights laws. Four charges of discrimination were filed with the EEOC. In March 2014, after the first charge was filed, Walmart announced changes to its written pregnancy accommodation policy – but the changes didn’t go far enough, nor did they provide redress for women who lost their jobs or substantial income under the old policy. Mehri & Skalet is continuing to move the case forward.

- *Robbins et al. v. Bolden*, EEOC No. 531-2014-00109X

Mehri & Skalet represents African-American and Asian-American employees in GS grades 13-15 in a proposed class action lawsuit against the National Aeronautics and Space Administration alleging discrimination in performance appraisal ratings that result in lower compensation and lesser promotion opportunities for members of those two racial groups. The firm filed a motion for class certification in May 2014, on which the Administrative Judge has not yet ruled. The two proposed classes encompass over 2,000 employees.

- Norflet Progress Fund

The Norflet Progress Fund is the *cy pres* fund named in honor of Ms. Merle Norflet, the lead Plaintiff in the lawsuit filed against John Hancock Life Insurance Company in 2004. Mehri & Skalet represented a class of African-Americans who were purchasers, owners, insurers, and beneficiaries of insurance policies issued by the John Hancock Life Insurance Company in the 1940s and 1950s. The Plaintiffs alleged that for decades, John Hancock engaged in discriminatory practices in the sale and marketing of life insurance policies to African-Americans. Mehri & Skalet secured a settlement in 2009 for \$24.4 million, a portion of which was distributed to class members. Approximately \$15 million was committed to the Norflet Progress Fund to be distributed to organizations that benefit African-American communities. In 2016, Mehri & Skalet continued its processing of millions of dollars of Norflet Progress Fund grants to numerous nonprofit organizations to benefit African-American communities.

Consumer Protection

- *Worth v. CVS*, No. 2:16-CV-498 (E.D.N.Y.)

Mehri & Skalet represents two consumers in a proposed class action filed in federal court in the Eastern District of New York, alleging that CVS falsely markets its “Algal-900 DHA” product to improve memory. Plaintiffs allege that the study CVS relies on for its claim was conducted by the in-house scientists for another supplements company, which withdrew its own product from the market after the Federal Trade Commission warned that the study did not support its memory claims. In addition, Plaintiffs allege that larger and more rigorous studies have overwhelmingly found no effect of DHA supplements on memory.

- *Deegan et al. v. Windermere Real Estate/Center-Isle, Inc. et al.*, No. 14-2-705-6 (Wash. Sup. Ct.)

Mehri & Skalet represents consumers who purchased homes on Whidbey Island in Washington State, and in connection with these sales, were not provided with legally required disclosures concerning military flight patterns in the area. In subsequent years, increased military flights have produced extremely high noise levels in the area, potentially affecting the health of residents, especially children, as well as the property values of Plaintiffs and the class. Plaintiffs are suing the real estate companies that listed and sold the properties, but failed to give the required disclosures, for violating the state's consumer protection act.

- *Mantikas et al. v. Kellogg Co.*, Case No. 2:16-CV-2552 (E.D.N.Y.)

Mehri & Skalet represents consumers who allege that Kellogg has falsely marketed and advertised its "Cheez-It WHOLE GRAIN" product, which in fact contains more refined, white flour than whole grain flour. Plaintiffs seek damages and injunctive relief on behalf of a nationwide class. The parties have completed briefing on Defendant's motion to dismiss, and are awaiting the court's decision.

Antitrust

- *Division of Insurance Company Regulation v. Aetna*, Case No. 160325191C; *Proposed Acquisition of Cigna Dental Health of Missouri, Inc., and Cigna Healthcare of St. Louis, Inc.* Case No. 151021477C

Mehri & Skalet partner Jay Angoff has been serving as counsel to the Missouri Department of Insurance (DOI) in connection with the proposed Aetna-Humana and Anthem-Cigna mergers. In May 2016, the Missouri Insurance Department issued a preliminary order blocking the Aetna-Humana merger in Missouri.

- *In re Insulin Pricing Litigation*, No. 3:17-cv-699 (D.N.J.)

Mehri & Skalet represents a California Plaintiff in a proposed class action alleging that drugmakers and Pharmacy Benefit Managers collude to inflate the list prices of essential insulin medications. They maintain a wide but secret "spread" between the reported and actual drug prices, and make outsized profit from patients who must pay all or a portion of the list price, including those in high-deductible plans, who have co-insurance

requirements, or are uninsured. Plaintiffs allege that these actions violate the Racketeer Influenced and Corrupt Organizations Act, and state consumer protection statutes.

- *Mackmin v. Visa Inc., et al.*, No. 1:11-cv-01831 (D.D.C.)

In October 2011, Mehri & Skalet filed a suit in federal court in the District of Columbia on behalf of a proposed nationwide class of automated teller machine (ATM) customers, alleging that Visa and MasterCard, along with member banks, have effectuated an illegal price-fixing agreement by forbidding ATM operators from charging lower access fees for cash withdrawals processed over other networks, which are more competitively priced. The result is that ATMs have to raise prices across the board, and consumers pay more. Agreements that restrict price-setting by competitors are categorically illegal under the Sherman Antitrust Act.

In 2016, the Supreme Court granted Defendants' petition for certiorari, but then dismissed it as improvidently granted after the parties briefed the appeal. This followed an August 2015 victory in the Court of Appeals for the D.C. Circuit achieved on behalf of the Plaintiffs, which ruled that they sufficiently alleged an illegal price-fixing agreement.

Plaintiffs are now conducting discovery and plan to move for certification of a nationwide consumer class, with the goal of ending this illegal practice and recovering damages for the inflated fees that consumers have paid.

Fair Housing and Lending

- *Fair Housing Center of the Greater Palm Beaches Inc. v. Sonoma Bay Community Homeowners Association Inc. et al.*, No. 9:14-cv-80667 (S. D. Fla.)

Mehri & Skalet brought a case against the Sonoma Bay Community Homeowners Association, as well as multiple housing organizations, for housing discrimination on the basis of familial status in the rental of housing in violation of the Fair Housing Act. The Defendants maintained policies and/or practices that discriminate against families with children through the use of rental applications that require prospective tenants to submit report cards for persons under the age of 18 years old and rules that impose a curfew on persons under the age of 18, requiring them to be inside or on their patios after sundown. While the Court agreed with Plaintiffs that the written policies violated fair housing laws, after a two week jury trial

the jury found the Defendants not liable for any harm. Plaintiffs have appealed to the Eleventh Circuit Court of Appeals.

Whistleblower/False Claims Act (FCA)

- Defense Contractor FCA Whistleblower

Mehri & Skalet represents a former defense contractor employee who blew the whistle on the falsification of testing results for equipment used in radar and other critical devices. This matter is currently in litigation.

- Mortgage Underwriting Whistleblower

Mehri & Skalet represents a mortgage underwriter who worked for a big bank and blew the whistle on numerous violations of underwriting requirements. This matter is pending review before a regulatory agency.

- Tax Scam Whistleblower

Mehri & Skalet represents a whistleblower that exposed the misuse of private foundations to fund political activities. This matter is being investigated by a regulatory agency.

Insurance Law

- *Morris v. Blue Shield of California*, Case No. 2:16-cv-5914 (C.D. Cal.)

Mehri & Skalet represents two Blue Shield of California policyholders who are alleging that Blue Shield has failed to comply with the Affordable Care Act's (ACA) Medical Loss Ratio (MLR) rule. Under the MLR rule, health insurers must refund money to policyholders if less than 80% of the premiums they collect goes to pay claims. Policyholders are alleging that Blue Shield overstated its MLR, and thus refunded less to policyholders than it is legally required to do. The case was filed in California state court and removed by Blue Shield to the Federal District Court for the Central District of California. Discovery is progressing, and Plaintiffs' class certification motion is to be filed by the end of May, 2017.

- Price Optimization Cases

Mehri & Skalet represents policyholders in cases in California and Illinois challenging Allstate's use of non-risk-based factors in setting auto insurance rates. Both state law and actuarial principles require that insurers

base their rates on risk, and insurers have always accepted this principle. In fact, insurers have traditionally used the argument that insurance rates must be based on risk when poor people and minority groups have complained that their insurance rates were unaffordable.

The Complaint alleges that in recent years Allstate has been setting rates based in part on the policyholder's willingness to tolerate a price increase. In both California and Illinois, the court has rejected Allstate's motion to dismiss on the basis of the "filed rate doctrine", under which any rate filed with the state Department of Insurance is immune from private challenge. The courts' rejection of that defense in both states is notable, since insurers have been unusually successful in persuading courts to recognize the defense, which was never intended to apply to insurance companies in the first place and, as a practical matter, leaves policyholders without a meaningful remedy.

Mehri & Skalet has also challenged Farmers' alleged use of non-risk based ratemaking factors in California, and in that case, too, the judge denied the company's motion to dismiss. Both the Allstate and Farmers cases have been referred to the California DOI under the primary jurisdiction doctrine for the DOI to make findings, after which the litigation will proceed. The Illinois case will continue in circuit court in Madison County, Illinois.

- Dialysis Patient Citizens

Mehri & Skalet represents Dialysis Patient Citizens (DPC) before multiple state insurance departments. Insurance companies have become increasingly aggressive in seeking to dis-enroll dialysis patients and force those who qualify for Medicare or Medicaid on to such programs, and to leave those who do not qualify for either program without coverage entirely. Some insurance companies are refusing to accept insurance payments from non-profit organizations on behalf of low-income dialysis patients, even though the Department of Health and Human Services (HHS) has for many years encouraged such patients to seek such assistance; some are requiring dialysis patients to attest that the money they use to pay premiums does not come from a third-party; and some are refusing to cover any dialysis patient who qualifies for Medicare. Insurance companies are lobbying state insurance departments to permit such conduct; DPC is seeking to prevent it.

- Expert Testimony

Mehri & Skalet partner Jay Angoff, based on his experience as both a state insurance commissioner and the first Director of ACA Implementation at HHS, provided expert testimony in two cases. One case involved the effect

of a life insurer's filings with a state insurance department regarding a merger it undertook and the duties it had to its policyholders; another involved the effect of an auto insurer's characterization of its customers' conduct that were disseminated throughout the industry.

Mr. Angoff is currently an expert in two additional cases. One involves the standards a hospital must meet in order to qualify for protection under a state statute that limits the liability of health care providers in medical malpractice cases; the other involves the question of what constitutes insurance coverage.

Firm News: New Faces

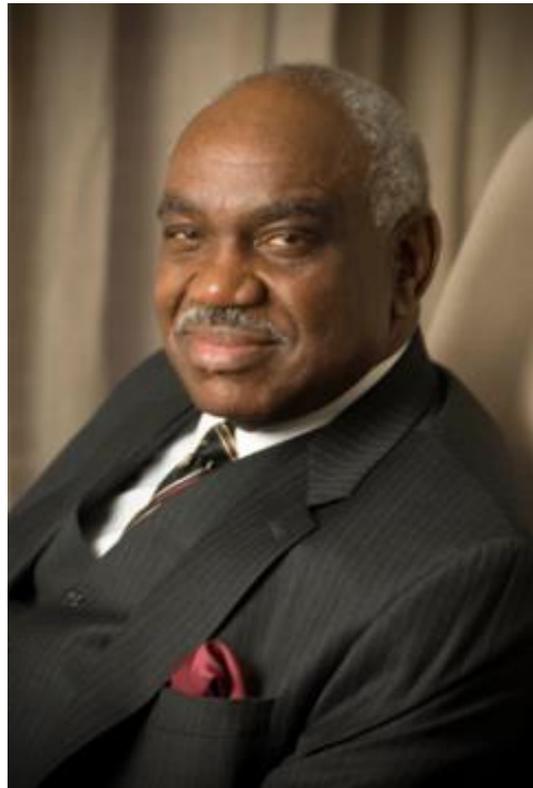
In December, 2016, Mehri & Skalet was pleased to announce that retired District Judge U.W. Clemon (Chief Judge N.D. Alabama) is joining the firm as Of Counsel starting January 1, 2017. Judge Clemon was Alabama's first black federal judge, serving as the Chief Judge of the Northern District of Alabama from 1999-2006. Joining Mehri & Skalet gives him a chance to return to his roots in civil rights and other public spirited and complex litigation.

"We are thrilled to have Judge Clemon join the Mehri & Skalet team," said Cyrus Mehri. "Judge Clemon brings unique and valuable wisdom, skill, and courtroom expertise to our practice and to our clients. He is also an inspiration to the next generation of public spirited lawyers."

Judge Clemon served as the trial judge during Lilly Ledbetter's successful trial against Goodyear. The Supreme Court created new legal standards and reversed Ms. Ledbetter's trial victory. In her dissent, Associate Justice Ruth Bader Ginsberg called on Congress to act to restore the law and the legal principles consistent with Judge Clemon's trial decisions. The Lilly Ledbetter bill became the first law that Barack Obama signed into law as President. Ms. Ledbetter has this to say about Judge Clemon: "There is no finer person or jurist than Judge U.W. Clemon. As the presiding judge, he managed my trial exactly how it should have been. He was fair to both sides. But for him, I may never have had my day in court and may never have had the opportunity to make history to change the law for the better for all Americans."

Judge Clemon serves on the Plaintiffs' Steering Committee in perhaps the largest antitrust case in the nation, BlueCross Antitrust. Judge Clemon is also frequently deployed as a mediator, arbitrator, or court-appointed Special Master including serving as Special Master in an historic Mehri & Skalet case, *Norflet v. John Hancock*. (See page 13 for more on the result *cy pres* fund.)

As a student activist at Miles College, Judge Clemon confronted the infamous Eugene "Bull" Connor over Birmingham's segregation ordinances in 1962, and marched with Dr. Martin Luther King in the following year. In 1968, he graduated from Columbia Law School, where he began a lifelong relationship with



the National Association for the Advancement of Colored People Legal Defense & Educational Fund, Inc.

Before his judicial appointment, Judge Clemon was a civil rights lawyer. He sued Coach Paul “Bear” Bryant in 1969 to desegregate the University of Alabama's football team, and has represented many Plaintiffs in employment cases.

He was the first African American elected to the Alabama State Senate since Reconstruction and served respectively as chairman of the Rules and Judiciary Committees. He confronted Governor George C. Wallace on many race-related issues.

After nearly thirty years of service, Judge Clemon retired from the federal bench in 2009. He will continue to be based in Birmingham but will frequently join Mehri & Skalet in D.C., and hopes to also continue his practice as a mediator/arbitrator.

Mehri & Skalet in the News: Changing Public Opinion as We Make Legal Progress

The impact of our cases extends well beyond its effects on our clients, to society as a whole. Mehri & Skalet doesn't just litigate; we speak out for what we believe in, getting our cases in front of the national media and interested advocates to change public opinion as we make legal progress. In 2016, you could find the Mehri & Skalet team on national cable, in the pages of national magazines, in online outlets, and in prestigious journals, speaking out on our broad expanse of cases and issues.

In the spring, Cyrus Mehri addressed the Human Capital Summit on the critical importance of [diversifying Boards of Directors at publicly-traded companies](#), called for Universal Community Service to [create public service opportunities](#) for young people, and called on the PAC-12 to [extend use of the Rooney Rule](#) for college coaches and to hire Engagement Officers for better dialogue between students and college administrators.

Mehri & Skalet Partner Craig Briskin made news with his case [targeting](#) Cheez-Its for falsely advertising as “whole-grain” crackers, he put MedStar Georgetown Hospital and George Washington University Hospital on notice with a class action [lawsuit](#) for their practice of charging consumers more than \$1,000 each to obtain their medical records, and he kept the heat on banks and credit cards to [eliminate](#) unfair ATM fees in an ongoing anti-trust case.

The head of Mehri & Skalet's whistleblower law practice, Partner Richard Condit, didn't just work to protect whistleblowers; he [explained](#) to Maryland audiences how and why it's important to do so.

We also offered our expertise on issues ranging from diversity in the [advertising industry](#), to the [challenge](#) of bringing a class-action suit when the discriminatory actions happened long ago, to the [latest](#) with the [Rooney Rule](#).

And, of course, we had a lot to say about the 2016 elections and our new President. Applying the lessons of fair competition and equal opportunity could have prevented the election of Donald Trump, Mr. Mehri [argued](#) in *Quartz*, noting,

“The campaign for president of the United States has frequently been called ‘the world's most important job interview.’ But as anyone who's ever felt unfairly passed over despite being eminently qualified for a job can tell you, the hiring process isn't always fair — and doesn't always produce the best result.”

“For decades, I've fought for equal opportunity for women and people of color across industries involving household name companies such as Coca-Cola, Texaco, the NFL, Morgan Stanley Smith Barney, and Well Fargo/Wachovia. Based on my experience, I believe Democrats failed to internalize three key principles of equal opportunity — which is how America wound up with Donald Trump.”

Interviewed on CNBC, Jay Angoff [proposed](#) that President Trump put his famous deal-making skills to work by negotiating with health insurance companies to “drive hard bargains.” He even sounded a bit prophetic when he noted that repealing and replacing [Obamacare](#) is going to be harder than Republicans think. “Be careful what you wish for,” he warned.

Finally, in December 2016, after decades of advising organizations on diversity and equality issues, Cyrus Mehri announced a new venture with M&S alum Pamela Coukos. Working IDEAL is a separate, but complementary business, dedicated to advancing the IDEAL workplace. One of the first action items of Working IDEAL was to submit innovative new ideas to the Securities and Exchange Commission about diversity and inclusion, and worker-friendly disclosures material to the bottom line of publicly-traded companies. Working IDEAL is already advising a major university, a labor union, and an influential not-for-profit on cutting edge and innovative solutions. Learn more about Working IDEAL’s services and solutions [here](#).

Telling the stories of our cases and our work is critical to our mission of advancing justice. You can always catch up on our most recent activity on our [website](#), under “Latest News.”