

Statement of Sharon Fast Gustafson  
Nominee for General Counsel  
U.S. Equal Employment Opportunity Commission  
Committee on Health, Education, Labor and Pensions  
United States Senate  
April 10, 2018

Thank you, Chairman Alexander, Ranking Member Murray, and Members of the Committee.

I am grateful to the President for nominating me to the position of General Counsel of the Equal Employment Opportunity Commission, and I am honored to appear before you today to answer your questions.

I am here with my husband, David Gustafson, and with four of our nine children: Adam Gustafson, Story Jones, Sonnet Gustafson, and Sigrid Gustafson.

Our Declaration of Independence affirms that all of us are created equal and are endowed by our Creator with inalienable rights -- life, liberty, and the pursuit of happiness. For most of us, that pursuit requires a paying job. I am grateful for a Constitution that says we all have "the equal protection of the laws." I am grateful that civil rights is a bipartisan issue. I am grateful to live under "a Government of laws and not of men."

Before law school, I worked -- sometimes for sub-minimum wage -- as a waitress, a janitor, a telephone operator, a secretary, a paralegal, and a daycare provider. I find it easy to identify with workers at every type of employment, and as a lawyer it has been my honor to help them protect their civil rights in the workplace.

In 1990, my first assignment as a summer associate at the Jones, Day law firm was to write an article explaining for our clients the newly enacted Americans with Disabilities Act. For weeks I pored over the statute and the legislative history, and I was hooked on employment law. I revised my schedule for my last year at Georgetown Law School to take labor and employment law classes, and I've been practicing employment law ever since.

My clients have reflected our American melting pot. They've been black, white, Latino, Christian, Muslim, Jew, male, female, gay, straight, able-bodied, and disabled.

In addition to the many employees I have represented over the years, I have also represented employers -- some who were falsely accused of discrimination with respect to those

statutes, and others who were liable for past misbehavior but were now taking action to make things right. Civil rights statutes were enacted because sometimes those in positions of power prey on the relatively powerless, or discriminate against those who are unlike themselves. In moments of weakness, anger, fear, or ignorance, prejudice and discrimination come out. I have dedicated my career to listening to people's stories and to identifying valid claims, wrongs that cry out to be righted. I have learned to ferret out dishonest or meritless claims, because my livelihood depended on it, and because both employer and employee deserve fair application of laws.

Litigation is a necessary tool. Without it, our civil rights statutes would be meaningless lists of aspirations. But litigation is an expensive, imperfect tool, often a blunt instrument, and resolution of disputes without litigation is an important part of the lawyer's job, just as it is an important part of the EEOC's function. Consequently, I have resolved, without litigation, many times the number of cases that I have litigated -- sometimes in the mediation room at the EEOC or at state and local Human Rights agencies.

The EEOC surely benefits from having a variety of backgrounds and perspectives represented in its Commission and Staff. As is evident, my own experience so far in employment discrimination matters has not been to sit in a high seat, pulling the levers of power; rather, I have been a solo lawyer most often representing the employee of modest means or the small business employer; and my seat has been in a mediation room, trying to invoke the agency's remedies to help someone get his job back, to get compensation for a wrongful termination, or to preserve the reputation of an employer wrongly accused. I think of my work as having been retail, street-level civil rights litigation. If confirmed, I believe my experience would be a wholesome addition to the mix at the EEOC.

The role of the General Counsel is to advise the client agency, to manage its litigation program, and to best use the tool of litigation to accomplish the mission of the EEOC. I believe in that mission; and if confirmed, I would do my best to fulfill it.

Thank you.