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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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CONCORD, NEW HAMPSHIRE 03301

JOHN M. FORMELLA
ATTORNEY GENERAL



JAMES T. BOFFETTI
DEPUTY ATTORNEY GENERAL

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December 26, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

Your Excellency and Members of the Council:

REQUESTED ACTION

That approval be and hereby is given to the Attorney General to appoint Rory S. Miller to Position #9U216 (Appropriation #02-20-20-201010-2620-013-500132) as an Attorney at a salary level of \$105,000, effective upon Governor and Executive Council approval or April 5, 2024, whichever is later.

EXPLANATION

Mr. Miller, a resident of Altadena, California, earned a Bachelor of Arts, *with High Distinction*, in Classical Language from University of California at Berkeley, where he was Phi Beta Kappa. He received his Juris Doctor from University of California, Los Angeles School of Law in 2005. During law school, he was Executive Editor of *UCLA Law Review*, Semi-Finalist in the UCLA Moot Court Roscoe Pound Tournament, and UCLA Moot Court Distinguished Advocate Award winner. After graduating, he clerked for the Hon. H. Emory Widener, Jr., at the Fourth Circuit Court of Appeals (2005-2006). Mr. Miller returned to California in 2006 to practice as an Associate at Quinn Emanuel Urquhart & Sullivan, LLP, in Los Angeles. His practice focused on intellectual property, antitrust, false advertising, financial and white-collar litigation. He also fostered relationships with numerous clients in the biotech and life science fields. He left that practice to join Glaser Weil Fink Howard Archen & Shapiro, LLP—first as an Associate (2014-2017), then Partner (2017-2022). He specialized in litigation featuring a significant public messaging/press management component, including as lead attorney representing a non-profit's Board of Directors during an internal sexual misconduct investigation, an investor in a high-profile corporate governance dispute, and an industrial chemicals company in 10-figure contract litigation. Mr. Miller joined Locke Lord, LLP, as a Partner in its Los Angeles office last year. He serves as Head of Private Equity Litigation for California, handling business, antitrust, and intellectual property disputes from pre-litigation

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through trial and appeal in courts throughout the nation. Mr. Miller and his family have decided to relocate to New Hampshire in pursuit of a better quality of life. Because California is not considered a "reciprocal jurisdiction" under Supreme Court Rule 42, XI (a), he registered to sit for the February New Hampshire Bar Examination. He will not sign pleadings or appear in court on behalf of this office until he is formally admitted to practice in New Hampshire, but the breadth and depth of his legal talent, acumen, and experience will provide invaluable aid and assistance, in myriad ways, to our busy, short-staffed, litigation team in the interim. In light of Mr. Miller's education and experience, I am requesting he be appointed as an Attorney at a salary of \$105,000. He will be assigned to the Civil Law Bureau's Litigation Unit. His resume is attached.

RSA 21-M:4 and RSA 94:1-a(I)(c) provide that the designation of positions, salary levels, and salary increases for attorneys at the Department of Justice shall be determined by the Attorney General, subject to approval of the Governor and Council, within appropriations made to the Department of Justice.

I am very pleased to offer Mr. Miller's appointment as an Attorney at the above-referenced salary for your approval and respectfully urge your favorable consideration. Thank you.

Respectfully submitted,



John M. Formella
Attorney General

RORY S. MILLER

AN EXPERIENCED, ACCOMPLISHED ATTORNEY AND LEADER

EXECUTIVE SUMMARY

An experienced, driven, and accomplished **Attorney and Leader**, with a wealth of experience while working for leading, high-profile law firms and organizations. Has strong litigation experience while working in many areas of the law, and is committed to the timely provision of the highest levels of legal counsel, services, and support.

SUMMARY OF QUALIFICATIONS

- Strong background in many areas including litigation, case strategy development and execution, team development and leadership, client development, marketing, networking, and client relations.
- Hard-working and driven, while highly-experienced in all aspects of legal work, has led diverse teams of attorneys and other legal personnel, and consistently meets the highest in performance expectations.
- Possesses a strong legal background and expertise, has a long and proven track record of case success, and ensures that all client needs and expectations are consistently met.

CORE COMPETENCIES

- | | | |
|-----------------------|-------------------------|----------------------|
| ▪ Legal Leadership | ▪ Staff Development | ▪ Risk Mitigation |
| ▪ Attorney Management | ▪ Court Proceedings | ▪ Legal Strategy |
| ▪ Case Assessment | ▪ Stakeholder Relations | ▪ Client Management |
| ▪ Case Preparation | ▪ Case Negotiation | ▪ Talent Acquisition |

PROFESSIONAL EXPERIENCE

LOCKE LORD, LLP, Los Angeles, California

Partner (2022-Present)

Serves as Head of Private Equity Litigation for California, handling business, antitrust, and intellectual property disputes from pre-litigation through trial and appeal in courts throughout the nation. Responsible for consulting with clients regarding their needs and expectations, case strategy development, legal team development, appearing in court, arguing client's positions, marketing, networking, and client relations. Serves a large and diverse clientele, and provides the highest levels of legal counsel, support, and services.

Selected Accomplishments and Cases:

- Focuses on litigation in state and federal courts in a broad range of industries, including financial and life sciences clients, with specialties in intellectual property, antitrust and unfair competition, white collar defense, and plaintiff's-side business litigation.
- In addition to court proceedings, heavily involved in case negotiation, ensuring timely and successful case resolution via reaching agreements with adversaries.
- During tenure, has supervised and mentored a diverse legal team, ensuring optimal performance, and seeing all individuals to their peak productivity.

GLASER WEIL FINK HOWARD ARCHEN & SHAPIRO, LLP, Los Angeles, California

Partner (2014-2022) Associate (2014-2017)

Specialized in litigation featuring a significant public messaging/press management component. Responsible for serving as Lead Attorney representing high-profile clients, case strategy development, client relationship management, and making court appearances. Worked extensively within state and federal appellate courts. Member of many trial/arbitration teams as second chair, first chair in several trial-related matters.

Selected Accomplishments and Initiatives:

- Served as Lead Attorney, representing Board of Directors of non-profit in "me too" internal investigation, an investor in a high profile corporate governance dispute, an industrial chemicals company in 10-figure contract litigation, and an insurance broker in a malpractice action obtaining settlement below cost of defense.
- Developed, maintained relationships with clients in the private equity, financial services, entertainment, and manufacturing industries, leading to retention of the firm; originated multiple clients in significant litigation.

QUINN EMANUEL URQUHART & SULLIVAN, LLP, Los Angeles, California

Associate (2006-2014)

Worked extensively within the intellectual property, antitrust, false advertising, financial, and white collar litigation areas. Responsible for business development, participating in client pitch meetings, preparing pitch materials and presentations for "beauty contests" (which consistently resulted in client retention). Provided advice regarding merits of complex intellectual property suits to hedge fund considering multi-million dollar investment in the outcome of the litigation. Fostered relationships with numerous clients in the biotech and life science fields.

THE HONORABLE H. EMORY WIDENER, JR. (Fourth Circuit Court of Appeals), Abingdon, Virginia

Law Clerk (2005-2006)

Gained substantive civil law exposure, including copyright infringement, insurance, employment discrimination, and antitrust appeals. Also gained strong exposure in post-Booker cases, Eighth Amendment prisoner litigation, capital cases on both direct and habeas review, and terrorism-related appeals. Assisted with the preparation of numerous published opinions, and also managed local federal public law library.

Additional Experience:

- *Summer Associate*, Clifford Chance US, LLP, Los Angeles, California (Summer, 2004)
- *Summer Associate*, Orrick, Herrington & Sutcliffe, LLP, Los Angeles, California (Summer, 2004)
- *Judicial Extern*, The Honorable Dickran M. Tevrizian, U.S. District Court, Los Angeles, California (Spring, 2004)

EDUCATION

UNIVERSITY OF CALIFORNIA, LOS ANGELES SCHOOL OF LAW, Los Angeles, California

Juris Doctor.

- Journals: *UCLA Law Review*, Executive Editor; *Journal of Law and Technology*, Staff.
- Honors: Semi-Finalist, UCLA Moot Court Roscoe Pound Tournament; UCLA Moot Court National Team Member; UCLA Moot Court Distinguished Advocate Award.

UNIVERSITY OF CALIFORNIA AT BERKELEY, Berkeley, California

Bachelor of Arts with High Distinction (Magna Cum Laude), Classical Languages.

- Honors: *Phi Beta Kappa*.

HONORS AND AWARDS

- Benchmark Litigation Star (2023)
- Benchmark Litigation Under 40 Hot List (2017-2022)
- *Los Angeles Daily Journal* "40 Under 40" (2018)
- Southern California Rising Stars, *SuperLawyers* (2017-2021)
- Wiley W. Manuel Pro Bono Certificate Recipient, State Bar of California (2009)

REPRESENTATIVE CASES

Antitrust and Commercial Litigation:

- *The Gores Group, LLC et al. v. Weingarten et al:* Lead counsel representing private equity firm The Gores Group, LLC in arbitration over a former employee's contractual obligation to pay a claw back on carried interest. (AAA Ref. No. 011800034953).
- *Glendon Fund III Equity Holdings, L.P. v. Hans et al:* Represented private equity firm The Gores Group, LLC along with its senior executives in a contract dispute with former professionals at the firm. The case, in which the professionals are seeking tens of millions of dollars in compensation. Obtained substantial arbitration award in clients' favor and was awarded costs as prevailing party. (JAMS Ref. No. 1220054142; Los Angeles Superior Court Case No. BS171183).
- *Meyer v. The Gores Group, LLC et al:* Represented as lead counsel private equity firm The Gores Group, LLC along with its senior executives in a contract dispute with former professionals at the firm including an offset defense based on Plaintiff's misappropriation of trade secrets. Plaintiff sought in excess of \$20 million; mediated and settled case for substantially less than demanded. (Los Angeles Superior Court Case No. BC723217).
- *Van Daele Development Corp. et al. v. Steadfast Insurance Company et al:* Represented as lead counsel insurance brokerage in malpractice and insurance bad faith action. Successfully defeated summary judgment and obtained rulings on motions *in limine* excluding essentially all evidence of damages. Settled case for substantially less than cost of defense. (C.D. Cal. Case No. 12-1294 VAP (SPx)).
- *Foreman et al. v. Rechnitz et al:* Represented largest owner and operator of skilled nursing facilities in state of California against a putative class action claiming chronic understaffing and other regulatory violations, as well as well as companion personal injury cases. Successfully defeated class certification. Appeared before the Court of Appeal in connection with a companion case. (JAMS Ref. No. 1220052954; Los Angeles Superior Court Case Nos. BC559909 and BC560144; Second District Court of Appeal Case No. B284869).
- *Rambus Inc. v. Micron Technology, Inc. et al:* Represented semiconductor manufacturing company in defense of a multi-billion dollar Cartwright Act antitrust suit alleging an industry-wide conspiracy to fix prices of computer DRAM and boycott a potential competing memory technology. Obtained complete defense win for client following three months of trial. (San Francisco Superior Court Case No. 04-431105).
- *Welch v. Calle et al:* Represented as lead counsel individual investor in the *Los Angeles Weekly* against company management in claims for breach of fiduciary duty and corporate waste. Obtained substantial and favorable settlement. (Los Angeles Superior Court Case No. BC719352).
- *Airsoft Zone Corporation et al. v. Airsoft Holdings, LLC et al:* Represented investor consortium in defense of breach of fiduciary duty suit brought by minority shareholder, as well as in pursuit of affirmative cross-claims. Obtained highly favorable settlement for clients. (Los Angeles Superior Court Case No. BC564731).

Patent and Intellectual Property Litigation:

- *Billups-Rothenberg Inc. v. ARUP Laboratories, Inc. et al:* Represented defendants accused of infringement of two patents governing genetic testing for a hereditary disorder. Succeeded in having both patents declared invalid on summary judgment. (C.D. Cal. Case No. 08-1349 MRP (SSx)). Obtained complete victory on appeal in a precedential opinion issued by the Federal Circuit. (642 F.3d 1031 (Fed. Cir. 2011)).
- *Life Technologies Corp. et al. v. Biosearch Technologies Inc. et al:* Represented Life Technologies and its subsidiary Applied Biosystems, LLC enforcing numerous patents relating to the TaqMan® genetic assay probes. Obtained favorable settlement shortly before trial. (N.D. Cal. Case No. 12-cv-0852-WHA).

- *Promega Corp. v. Applied Biosystems LLC et al*: Represented the California Institute of Technology, Life Technologies and its subsidiary Applied Biosystems, LLC in a dispute regarding the validity of a fundamental patent covering short-tandem repeat (STR) forensic genetic assays against one of Life's largest commercial competitors. Obtained summary judgment of infringement and breach of licensing agreement before Judge Richard A. Posner. (N.D. Ill. Case No. 13-02333 RAP).
- *Sky Technologies LLC v. Microsoft Corporation et al*: Represented international conglomerate against accusations that its product lifecycle management (PLM) and sourcing management software infringe on a patent held by a non-practicing entity. Obtained settlement terms more favorable than those received by any defendant sued by the plaintiff. (D. Mass. Case No. 11-cv-10833-WGY).
- *Solannex, Inc. v. MiaSolé, Inc*: Represented solar cell manufacturer in two related suits claiming that its thin-film photovoltaic cells' interconnection design infringes on numerous patents held by a failed competitor. Obtained favorable claim construction ruling that lead to a stipulation of non-infringement. (N.D. Cal. Case Nos. 11-cv-00171-PSG & 12-cv-00832-PSG).

Appellate:

- *Allen et al. v. Environmental Restoration, LLC*: Lead appellate counsel representing EPA contractor in connection with a major environmental catastrophe. Obtained permission to bring an interlocutory appeal on a statute of limitations issue of first impression that has the potential to be dispositive of all plaintiffs' claims. Unanimous, precedential decision in favor of client. (32 F.4th 1239 (10th Cir. 2022)).
- *Rusnak/South Bay, LLC v. Glukel Group, LLC*: Argued on behalf of Plaintiff and Appellant issues involving trial court's award of prevailing party attorneys' fees. Obtained highly favorable outcome in an unpublished decision. (Second District Court of Appeal Case No. B286513).
- *Fair Housing Councils v. Roommate.com*: Represented internet roommate matching service defending against claims its services violated the Fair Housing Act. Drafted successful petition for rehearing *en banc* on questions of law regarding the limits of internet content providers' immunity under Section 230 of the Communications Decency Act and its intersection with other federal laws creating private rights of action. Coordinated numerous amicus groups' strategy, as well as media coverage of the case. Resultant decision substantially clarified the contours of the law from the original panel decision. (521 F.3d 1157 (9th Cir. 2008) (*en banc*)).
- *Soka University of America v. Shogakukan, Inc. et al*: Represented Japanese publishing company defending the largest anti-SLAPP attorneys' fees award in California following dismissal of a defamation suit. Case centered around reports, in Japan, of an American university's affiliation with a politically active religious movement, as well as raised questions about accreditation. Complete victory on appeal. (9th Circuit Case No. 06-56627)

PRESENTATION AND MEDIA

- Guest Lecturer, Civil Procedure, Chapman University School of Law.
- "Special Issues for User-Generated Advertising", presented at LSI's *el lavioral, Peer-to-Peer and New Media Marketing*, June 2, 2008, Seattle, Washington.
- Quoted in "The iPad as a Social Device" by David F. Carr, *Forbes.com*, November 23, 2010.