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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JAMES T. BOFFETTI
DEPUTY ATTORNEY GENERAL

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July 19, 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 Michael P. DeGrandis to Position #9U215 (Appropriation #02-20-20-201010-2620-013-500132) as an Attorney at a salary level of \$90,000, effective upon Governor and Executive Council approval or August 25, 2023, whichever is later.

EXPLANATION

Mr. DeGrandis, currently a resident of Falls Church, Virginia, and soon to be a resident of Hudson, earned his Bachelor of Arts, *magna cum laude*, from Salve Regina University in 1992 and his Juris Doctor from Antonin Scalia Law School at George Mason University in 2005. He began his legal career as an Associate focusing on complex commercial litigation at McGuire Woods LLP from 2007 to 2012. He practiced in the same field at Hunton & Williams LLP, from 2007 to 2012, and Sands Anderson PC, from 2012 to 2014. Mr. DeGrandis was managing member of his own law office from 2014 to 2018. He joined the Civil Liberties Alliance in 2014 and served as senior litigation counsel until 2022. He has been Vice-President and General Counsel at American Juris Link since 2022. He is admitted to practice law in New Hampshire and will be admitted to the New Hampshire Bar pursuant to Supreme Court Rule 42, XI, before the effective date of his appointment. Considering Mr. DeGrandis' experience, I am requesting he be appointed as an Attorney at a salary of \$90,000. He will be assigned to the Civil Law Bureau's Litigation Unit. A copy of his resume is attached.

RSA 21-M:3 and 94:1-a provide that 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.

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

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "J.M. Formella", is written over a faint, light blue circular watermark or seal.

John M. Formella
Attorney General

#4103961

Michael P. DeGrandis

Complex Commercial, Constitutional & Appellate Litigator

Seventeen-year legal career includes complex commercial, administrative law, constitutional law, civil rights, and appellate litigation. Investigated, prosecuted, defended, and settled highly-leveraged complex commercial and high-profile public interest cases in state and federal courts. Constitutional and appellate litigation experience includes challenges to actions taken by federal agencies including the SEC and CFPB, and federal and state executive branch officials. Experienced teacher, businessperson, and project manager, having designed and delivered HUD regulatory compliance courses as Vice President of Research & Development at a national nonprofit.

CONSTITUTIONAL LITIGATION & APPELLATE EXPERIENCE

AMERICAN JURIS LINK (AJL) | Virtual Office | Vice President & Senior Counsel 2022 – present

- **Strategic Litigation Counseling:** Develops and executes methods and programs to equip state officials and public interest litigators with the education, strategies, and tools they need to advocate effectively in state and federal courts. For instance:
 - Advises a state Attorney General on strategies and tactics for using the Port Preference and Equal Protection Clauses as tools to challenge the Jones Act's cabotage provisions.
 - Designed a first-of-its-kind state constitution database to compare constitutional provisions across states to identify differences and similarities to advocate for civil liberties more effectively.
 - Advised a national public interest law firm on strategies and tactics to defend the target of an unlawful and punitive federal agency investigation into its lending practices.

NEW CIVIL LIBERTIES ALLIANCE (NCLA) | Washington, D.C. | Senior Litigation Counsel 2018 – 2021

- **Constitutional & Administrative Law Litigation:** Initiated litigation in state and federal courts to relegate the administrative state to its proper place in the constitutional order of government. For instance:
 - *CFPB v. Law Offices of Crystal Moroney, P.C.* (Southern District of New York and Second Circuit Court of Appeals)
 - o Successfully challenged CFPB Director's Title X tenure protection as violative of the separation of powers.
 - o Challenging CFPB's funding structure as violative of the Nondelegation Doctrine (petition for certiorari pending).
 - *Desrosiers v. Baker* (Massachusetts Supreme Judicial Court)
 - o Asserted separation of powers challenge to Governor Baker's COVID-19 Civil Defense State of Emergency.
 - o Filed Petition for Writ of Certiorari to the U.S. Supreme Court to seek a review of the Massachusetts court's flawed peaceable assembly and substantive due process holdings.
- **Supreme Court Advocacy:** Filed amicus curiae briefs in defense of civil liberties, including:
 - *Americans for Prosperity Foundation v. Bonta* | Merits Stage
 - o Successfully argued that *NCAA v. Alabama's* holding that the right to associate includes the right to privacy in one's associations prohibited the California Attorney General's demand for nonprofit organizations' donor lists.
 - *Jessop v. City of Fresno* | Certiorari Stage
 - o Argued that when ruling on qualified immunity defenses, courts must determine whether the alleged wrongdoing would be unconstitutional if borne out by the facts, even if the bad act is "not clearly established" as unconstitutional in the instant case.
- **Administrative Law Advocacy Outside the Courtroom:** Filed comments and petitions and engaged in pre-litigation negotiations to prevent or correct unlawful administrative state action. For instance:
 - Successfully petitioned DOT to change its use of internal guidance so it could not coerce regulated parties outside APA procedure.
 - Successfully persuaded a Northern Virginia school board to withdraw its proposed rule that forbade employee criticism of board members and board policies on social media, even if posted outside working hours and off campus.
 - Successfully persuaded the Massachusetts Growth Capital Corporation to make its small business COVID-19 grants more inclusive.
 - Filed APA comments to the HHS-proposed drug pricing transparency rule (lacking statutory authority) and to the TTB-proposed beer, wine, and liquor labeling rule (unconstitutional speech licensing).
- **Mentorship & Teaching:** Educated the next generation of attorneys through adaptive and inclusive teaching and training:
 - Introduced mentees and student clerks to the philosophical contexts and factual predicates of their litigation assignments and engaged them in dialogue about possible approaches to completing their assignments; provided immediate feedback to mentees and clerks and kept them abreast of circumstances as cases progressed so they could understand how their work advanced the case.
 - Served as advisor to a Scalia Law School Law Review candidate's casenote.

COMPLEX COMMERCIAL LITIGATION & INVESTIGATIONS EXPERIENCE

DEGRANDIS LAW OFFICE PLLC Tysons Corner, Virginia Managing Member	2014 – 2018
SANDS ANDERSON PC Vienna, Virginia Counsel	2012 – 2014
HUNTON & WILLIAMS LLP Tysons Corner, Virginia Associate	2007 – 2012
MCGUIREWOODS LLP Tysons Corner, Virginia Summer Associate; Law Clerk; Associate	2004 – 2007

- **Complex Litigation Management:** Managed all phases of litigation from intake through trial and appeal, for instance:
 - Successfully defended a corporation president in a \$50 million shareholder derivative action and served as lead discovery counsel to a seven-party joint defense group; supervised co-counsel regarding implementation of discovery strategies and tactics, successfully defended three separate motions to compel, managed expert witnesses, examined and cross-examined witnesses at trial, and collaborated with co-counsel to secure affirmation of judgment in defendants' favor in the Supreme Court of Virginia.
- **Discovery & eDiscovery Management:** Managed offensive and defensive discovery in a diverse range of civil litigation:
 - Served as certified e-discovery specialist at Hunton & Williams LLP, developing, managing, and executing discovery strategies for products liability, contracts, business and personal torts, employment, antitrust, insurance, intellectual property, and other cases, including Rule 26(f) conferences, legal holds, search term and claw-back agreements, document collection/review/production, privilege identification and log creation, written discovery requests and responses, document review protocols and workflow.
 - Conducted dozens of depositions and managed attorneys conducting large-scale (75+ contract attorneys) document reviews.
 - Negotiated terms of administrative subpoenas from regulators to control costs and scope of document productions.
- **Courtroom & Administrative Agency Advocacy:** Advocated orally and in writing before judges, panels, and mediators:
 - Drafted pleadings, briefed and argued motions, and tried, mediated, settled, and appealed cases regarding breaches of contract, business and personal torts, fraud, breaches of fiduciary duty, professional liability, products liability, banking and finance-related matters, and eminent domain actions (related to utilities and infrastructure security).
 - Successfully argued for full disability benefits before the Physical Disability Board of Review on behalf of each veteran-client.
- **Large-Scale Investigations:** Managed and conducted internal investigations, coordinating with forensic accountants, forensic IT professionals, and other subject matter experts to mitigate risk uncovered through the course of the investigations:
 - Investigated suspicions of fraud, negligence, and theft at publicly traded banking, professional services, and healthcare organizations by developing strategies and tactics, leading investigating attorneys, conducting interviews, dynamically applying the relevant law to evolving perspectives on how the law applies to accumulating facts, and formulating and executing liability-mitigating solutions.

OTHER PROFESSIONAL EXPERIENCE

NATIONAL CENTER FOR HOUSING MANAGEMENT (NCHM)

1998 – 2004

- **Vice President of Research & Development (2001-2004):** Designed and developed all professional certification courses for national nonprofit affordable housing education organization; spearheaded NCHM's entry into virtual classroom education; evaluated and trained instructors regarding how to be better teachers, especially where students required non-standard and inclusive engagement; stakeholder-participant at HUD and REAC regulatory meetings; drafted responses to RFPs resulting in contracts with government entities to provide training and services that increased revenue by more than 200% between 1999 and 2002.
- **Regulatory Compliance Trainer (1999-2004):** Taught managers of public and assisted housing how to comply with government rules and regulations pertaining to Section 8 HAP, voucher, and Public and Indian Housing occupancy, IRS Section 42 LIHTC occupancy, Fair Housing Act protections, and Americans with Disabilities Act protections; earned the highest teacher approval rating nationally each year; achieved highest certification examination pass-rates nationally each year.
- **Director of Operations (1998-2001):** Managed general operations, grant writing, and human resources; turned a company on the brink of insolvency (and evicted from its D.C. and Puerto Rico offices) into a profitable enterprise in just three years.

EDUCATION

George Mason University School of Law, Arlington, Virginia | Juris Doctor

- Night student
- Editor-in-Chief, George Mason Law Review
- Writing Fellow, Legal Research & Writing LAW094 and LAW095

Salve Regina University, Newport, Rhode Island | Bachelor of Arts, Politics

- *Magna cum laude*
- Bower Award for Research: Most Outstanding Scholarly Work
- State of Rhode Island Intern of the Year | Sen. Joan R. Wiesner (R-Burrillville)

SELECT MEMBERSHIPS, PUBLICATIONS, & ACHIEVEMENTS

- Member of the Virginia State Bar (No. 70939) and the New Hampshire Bar Association (pending swearing-in)
- Admitted to the U.S. Court of Appeals for the Second Circuit
- Co-author: *Out of the Separation-of-Powers Frying Pan and Into the Nondelegation Fire* | 87 Univ. of Chicago L. Rev. Online 55 | Aug. 27, 2020
- Author: *Atkins v. Virginia*: Nothing Left of the Independent Legislative Power to Punish and Define Crime | 11 Geo. Mason L. Rev. 805 | Summer 2003 (pub. 2005) (cited by Michigan Supreme Court in *People v. Correa*, 288 Mich. 989, 791 N.W.2d 285 (2010))
- Virginia Pro Bono Service Honor Roll inductee (2021-22)
- Three-time recipient of the Williams Award for Outstanding Pro Bono Service
- Money Magazine's 2014 "50 Heroes in 50 States" runner-up for pro bono veterans' advocacy