



Gwen Keyes Fleming

Partner
CO-CHAIR, ENVIRONMENTAL PRACTICE GROUP

gwen.keyesfleming@dlapiper.com

Washington, DC **Atlanta**

T: +1 202 799 4419

F: +1 202.799.5219

Strength in building relationships, advising on complex legal and regulatory matters, in-depth knowledge of local, state and federal governments, and helping clients achieve their business and operational imperatives are at the heart of Gwen Fleming's practice.

Gwen advises a wide variety of business, institutional and organizational clients on all aspects of environmental policy, government relations, enforcement defense litigation and special investigations for private and municipal clients. She provides strategic advice on national security issues involving the protection of environmental and energy infrastructure such as cyber and physical threats and including compliance planning, incident response and subsequent enforcement and litigation matters.

Gwen spent more than twenty years in the public sector, serving as both an elected and appointed official at the state and local levels, as well as in various branches of the federal government. She served as Principal Legal Advisor (General Counsel) for Immigration & Customs Enforcement (ICE) in the U.S. Department of Homeland Security (DHS) and as Chief of Staff to the Environmental Protection Agency (EPA) during the Obama Administration.

In addition, Gwen served as the EPA Region 4 (Southeastern Region) Regional Administrator (RA), where she was responsible for establishing and implementing environmental policy, including the principals of environmental justice for eight southeastern states and six federally recognized tribes. Gwen finalized the Region's Environmental Justice (EJ) Policy (previously stagnated for 10 years), instituted regular environmental justice information sessions with state partners and communities, and created a Regional EJ Interagency Working Group with other federal agencies to strategically and comprehensively address community concerns. Gwen also instituted the Colleges and Underserved Community Partnership Program (CUPP) which partnered college students with senior federal staff to provide much needed environmental, health and technical services to some of the poorest jurisdictions in their region.

Notably, Gwen is a twice elected District Attorney for the Stone Mountain Judicial Circuit in DeKalb County, Georgia. She was the first African American and first woman to hold that office.

- Regulatory and Government Affairs
- Environment, Health and Safety

- Energy and Natural Resources
- Industrials

- Serves as the Chief Counsel for a 180+ member trade association focused on the safe production, packaging and transportation of

mission chemicals and advises on the day-to-day operations and interactions regarding regulatory matters and litigation strategies with EPA.

- Negotiated a favorable settlement for a chemical manufacturer defending a citizen suit claim of non-compliance with the Clean Water Act.
- Drafted the defense strategy that facilitated a favorable Clean Air Act settlement for a large public power utility resulting in a significant reduction in penalties assessed.
- Successfully defended two waste disposal companies against the EPA's claims of inadequate financial assurance under the Resource Conservation and Recovery Act.
- Assisted a newly elected local government client with reviewing the terms of the Clean Water Act Consent Decree, drafting a plan to address previous performance challenges with staff responsible for compliance and outlining a strategy to engage state and federal regulatory agencies in response to a citizen suit alleging noncompliance. Facilitated approval of a Consent Decree Modification which gave the client more time to implement cost effective remedies while also addressing the community's and NGO's environmental justice concerns.
- Conducted an internal investigation into alleged employee violations of an organization's policies and procedures that resulted in an employee agreeing to repay funds inappropriately obtained.
- Led the largest legal program within DHS, comprised of approximately 1500 attorneys and staff in 60 locations across the country providing legal advice to ICE client senior officials as they led a global team of nearly 20,000 employees committed to protecting national security and public safety via the enforcement of immigration and customs law.
- Managed the day-to-day operations of the EPA's nearly \$8 billion budget and 15,000 employees in concert with other senior agency officials. Participated in the development and coordination of viewpoints of various stakeholders as the Agency finalized or proposed significant environmental regulations including the Clean Water Rule, the Clean Power Plan, the Definition of Solid Waste (DSW) Rule, Coal Combustion Residuals (CCR) Rule, Ozone NAAQS and the Worker Protection Standard.
- Operated as the lead enforcement official responsible for coordinating all civil and criminal aspects of environmental protection in conjunction with state partners and headquarters representatives in accordance with the statutory provisions of the Clean Water Act (CWA), Clean Air Act (CAA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Resource Conservation and Recovery Act, (RCRA) National Environmental Policy Act (NEPA) and other environmental laws.
- Served as the chief negotiator on numerous highly sensitive and complex environmental matters involving diverse stakeholder interests including a comprehensive and enforceable historic agreement with the State of Florida establishing, for the first time, a science-based protective limit (WQBEL) on NPDES permits controlling phosphorus pollution discharges into the Everglades thereby ending nearly twenty years of litigation.
- Served as the EPA's co-representative to the RESTORE Act Council and supervised the personnel tasked with addressing the ecosystem restoration and community resiliency in the Gulf of Mexico coastal region after the Deepwater Horizon Oil Spill.
- Managed to fairly balance the interests of law enforcement agencies, next-of-kin, the media and the community-at-large during the initiation and supervision of a year-long Special Civil Grand Jury Investigation into fifteen officer-involved fatalities that occurred within DeKalb County, Georgia within the span of one year.

CREDENTIALS

Admissions

- District of Columbia
- Georgia

Prior Experience

- U.S. Department of Homeland Security, Immigration & Customs Enforcement, Principal Legal Advisor, 2015-2017
- U.S. Environmental Protection Agency, Chief of Staff to Administrator Gina McCarthy, 2013-2015, Regional Administrator, Region 4, 2010-2013
- Stone Mountain Judicial Circuit, Decatur, GA, District Attorney, 2005-2010
- DeKalb County Solicitor General's Office, Decatur, GA, Solicitor General, 1999-2004, Chief Assistant Solicitor General, 1998-1999,

and Senior Assistant Solicitor General, 1993-1994

Recognitions

- *Legal 500* Recommended Attorney, Environment – Regulatory, 2019
- African American Federal Executive Association (AAFEEA), Ebenezer Basset Award, 2017
- USEPA, Environmental Justice Champion of Change Award, 2015
- Atlanta Metropolitan, Combined Federal Campaign Leadership Award, 2012

Education

- J.D., Emory University
- B.S., Rutgers University
- Certificate of Completion for the Promoting Racial Equity in the Workplace Program, John F. Kennedy School of Government at Harvard University, Executive Education

Courts

- Georgia Court of Appeals
- Supreme Court of Georgia
- Supreme Court of the United States
- United States Court of Appeals for the District of Columbia Circuit

Memberships

- Co-chair, Task Force on Environmental Justice, American Bar Association
- Member, Section of Environment, Energy and Resources, American Bar Association
- Member, American College of Environmental Lawyers
- Partnership for Public Service, Strategic Advisor for Government Executives (SAGE)

Civic and Charitable

- Board member, Environmental Law Institute
- Board member, Environmental Protection Network

INSIGHTS

Publications

Environmental justice takes a permanent place at the Department of Justice

12 May 2022

Companies with environmental interests should consider several dynamics arising from these policy developments and resource allocations.

- "Anti-Transgender Bills Being Introduced & Enacted by State Legislatures," June 6, 2021
- "Environmental Justice Policy Gains Momentum Under the Biden Administration," February 22, 2021

- "Legal Challenge to Federal Ban on SEPs May Result in Change in Enforcement Policy," October 15, 2020
- "EPA Issues Compliance Advisory Regarding Pesticide Devices Making Claims to Kill the Novel Coronavirus," June 9, 2020
- "Medical Waste & COVID-19: Important Developments," March 26, 2020
- "Escalated Tension with Iran Heightens Cybersecurity Threat Despite Military De-Escalation," January 8, 2020
- "EPA's 20 Proposed Low-Priority and High-Priority Chemical Substances: Comments are Due November 2019," August 28, 2019
- "Water ISAC Releases Broader Cybersecurity Guidelines for Water & Waste Water Utilities," July 29, 2019
- "EPA Amends Freedom of Information Act Regulations," July 3, 2019
- "New Hazardous Waste Pharmaceutical Rule Imposes New Obligations on Health Care Providers," April 5, 2019
- "EPA Issues New Emergency Response Requirements for Community Water Systems," April 3, 2019
- "Significant Cyber Supply Chain Management Changes on the Horizon for Electric Utilities," October 31, 2018
- "DOT Aims to Create Flexible Regulatory Framework for Automated Vehicle Technology," October 11, 2018
- "FERC Raises the Threshold for Cyber Incident Reporting," July 24, 2018
- "Updated TSA Guidelines Suggest New Approach for Pipeline Cybersecurity," April 24, 2018
- "DC Circuit Decision Loosens Restrictions on Solid Waste," March 23, 2018
- "GAO Reports Challenges and Successes in Cybersecurity Framework Adoption," March 5, 2018
- "Federal Government Takes Steps to Shape Rules for Automated Vehicles," September 18, 2017

Events

Previous

EPA Rule on Solid and Hazardous Waste: Enforcement and Compliance with 83 Fed. Reg. 24664

10 May 2022
Webinar

- "60 Days' Notice: Citizen Suits after 50 years of the Clean Water Act (and short stories)" ABA's SEER 51st Spring Conference on Environmental Law, April 8, 2022
- "Priorities of the Biden-Harris Administration" ALI-CLE, February 10, 2022
- "What the Biden EPA's Environmental Justice Movement Means for Industrial Investors and Operators," June 22, 2021
- "Paths of Environmental Law and Environmental Justice: Where we need to go to ensure equal protection of everyone," ABA's SEER 50th Spring Conference on Environmental Law, April 30, 2021
- Environmental Law 2021, ALI CLE/Environmental Law Institute, February 24, 2021
- VNF Live, "Changes to Congressional Committee Leadership: They are Coming No Matter the Results of the Election," October 1, 2020
- APPA's Legal and Regulatory Conference, American Public Power Association, Portland OR, October 22, 2019
- "Managing Unused Pharmaceuticals: New Obligations on Healthcare Providers, Expanded Definition of Healthcare Facility," June 19, 2019
- "Race and the Law," Vermont Law School's Black Law Student Association, South Royalton VT, February 1, 2019
- "Successful Policy Development in an Ever-Changing Environment," Washington DC, December 10, 2018
- "Environmental Review and Permitting Reform for Infrastructure Projects - Breakfast Program," National Association of Women Lawyers, Beveridge & Diamond, & Van Ness Feldman, Washington DC, June 20, 2018
- "New Source Review Reform: Past, Present and Future," American Bar Association, Teleconference, April 10, 2018

NEWS

Gwendolyn Keyes Fleming joins DLA Piper's Environmental Regulatory practice in Washington, DC

20 April 2022

DLA Piper is making a key strategic expansion of its Regulatory & Government Affairs practice and Environmental group with the arrival of Gwendolyn Keyes Fleming as a partner in Washington, DC.

MEDIA MENTIONS

- "DLA Piper Lands Ex-EPA Chief Of Staff In DC," *Law360*, April 21, 2022
- Frequent contributor on MSNBC regarding various legal topics