

### ADAM UNIKOWSKY COUNTS THREE US SUPREME COURT VICTORIES IN ONE TERM: "IT'S FUN TO DO ... ESPECIALLY WHEN YOU WIN"

The US Supreme Court gave Adam Unikowsky the first bit of good news on May 15. He'd won *Howell v. Howell*. But Adam spent the morning of June 5 riveted to SCOTUSblog, reloading and reloading and reloading.

In the span of about five minutes, he had his answer: Two more cases. Two more victories.

"It was definitely a relief to stop the waiting," said Adam, a member of the Appellate and Supreme Court Practice who joined Jenner & Block in 2008. He left to clerk for Justice Antonin Scalia in 2010, then returned to the firm after the clerkship in 2011.

Adam's impressive victories came after months of work and preparation, which included two moot courts for each case and support from "excellent" associates in the firm's Washington, DC and Chicago offices.

He had not handled any of the three cases in the lower courts, and each one was different, with its own "twists and turns." Adam won unanimous victories in all three, despite facing opposition from the US Department of Justice in all three and despite the fact that the majority of lower courts had rejected the positions he advanced.

In fact, even with the pressure of arguing before the highest court in the land, Adam came away from his Court appearances feeling good. Although the justices asked difficult questions, there were no "bad moments." "They were pretty soft on me," he said.

In *Howell v. Howell*, Adam successfully argued that federal law pre-empted a state court's order directing his client, an Air Force veteran, to indemnify his former spouse for the reduction in her portion of his retirement pay resulting from his post-divorce decision to take disability pay. The Court rejected the Justice Department's position, which, among other things, maintained that "the vast majority of States" had rejected veterans' arguments under these circumstances.

In *Kokesh v. SEC*, Adam successfully argued that the five-year statute of limitations in a general federal statute of limitations governing penalties and forfeitures applies to SEC claims seeking disgorgement of illegally obtained profits. The Court's landmark ruling will dramatically affect the SEC's ability to obtain disgorgement in enforcement actions under securities laws and the Foreign Corrupt Practices Act.



Illustration used with permission from Art Lien

And in *Honeycutt v. US*, Adam successfully argued that federal criminal asset forfeiture statutes apply only to property a defendant actually acquires as the result of the crime, or substitute property under narrowly defined circumstances. The Court rejected the Justice Department's position that there is joint and several liability for forfeiture among members of a criminal conspiracy.

"It's not so easy to get these cases," Adam said. "I'll keep looking for them. Hopefully, I'm going to do more going forward. I'd love to do it again."

To young lawyers eager to follow Adam's path, he gives this advice: Read a lot of Supreme Court petitions, those that are accepted and those that are not. Get familiar with what the Court is looking for. And then, go for it.

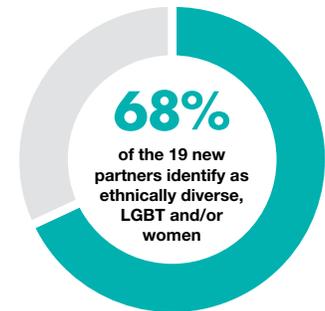
"It's a matter of reading a lot of cases and trying to be proactive on an issue that's important to you," he offered.

Adam's own career path may not seem obvious. He earned his master's and undergraduate degrees in engineering from the Massachusetts Institute of Technology.

There, he participated in the debate club, which piqued his interest in pursuing law. Studying engineering supported his interest in technology and patent law. He sees a connection between science and the law: "You have to think logically to be both an engineer and a lawyer."

After MIT, Adam attended Harvard Law School. Looking back on his time there, he of course recalled reading Supreme Court cases. Still, he could not have imagined that he would stand before the Court three times in a 30-day period a decade after earning his JD.

"Now that I've done it a few times," he said, "it's fun to do. Especially when you win."



Ms. Chapuis

### EMILY CHAPUIS JOINS DIVERSE GROUP OF NEW PARTNERS

Partner Emily L. Chapuis was elevated to partner in a diverse 2017 class of

lawyers. Sixty-eight percent of the 19 new partners identify as ethnically diverse, LGBT and/or women, which is in line with the firm's commitment to diversity and inclusion. Emily is a member of the firm's Complex Commercial Litigation Practice. She litigates before federal and state courts, including in the US Supreme Court, as well as before federal agencies. Her practice includes high-stakes copyright and hospitality-related matters.

### FIRM CONTINUES FIGHT AGAINST DISCRIMINATORY BATHROOM LAWS

Jenner & Block's advocacy on transgender issues continued in a new challenge to North Carolina's replacement "bathroom bill." At issue is HB 142, which replaced the controversial HB 2 earlier this year. HB 2 prohibited transgender North Carolinians from using restrooms or other facilities consistent with their gender identity. Lawmakers repealed HB 2 in March. But, according to the new complaint filed on July 21, HB 142 still effectively prevents transgender people in North Carolina from using restrooms matching their gender identity. According to the complaint, the replacement law continues the harms of its predecessor by leaving restroom policies in the hands of state lawmakers and preventing local governments or school systems from setting rules or offering guidance.

"By deterring transgender individuals from using restrooms and other single-sex, multiple-user facilities that accord with

>> CONTINUED ON PAGE 2



Ms. Morse



Mr. Donahue

### MERGER CREATES LARGE ORGANIZATION DEDICATED TO EDISCOVERY MANAGEMENT

Partner Gail H. Morse and Associates Brendan A. Donahue and Rafi W. Mottahedeh were on the cross-disciplinary team representing Discovia in its merger with Lighthouse Document Technologies Inc. The newly formed company becomes the largest organization in the ediscovery management industry focused on optimal use of technology for ediscovery, compliance and risk management.

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Mr. Mottahedeh

### LONZA RIGHTS OFFERING WILL GO TOWARD ACQUISITION OF CAPSUGEL

Associate Rafi W. Mottahedeh was on the cross-disciplinary team that represented Switzerland-based Lonza Group AG in its roughly \$2.3 billion rights offering. The proceeds will be used to finance a portion of the purchase price of Lonza's acquisition of Capsugel.



Mr. Platzer

### VICTORY AFFIRMED IN DIGITAL MILLENNIUM COPYRIGHT ACT DISPUTE

Partner Luke C. Platzer helped secure a victory in a long-running copyright infringement case relating to the operations of a pair of online music sites. The Second Circuit made two rulings in favor of firm client EMI: it affirmed a lower court's decision that MP3tunes, LLC (a now-bankrupt online music storage locker service) and its former CEO Michael Robertson reproduced and distributed EMI's copyrighted works without permission and significantly reinstated the accompanying \$48 million jury verdict against the defendants.

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Mr. Bandza

### ALEXANDER BANDZA HELPS LAUNCH GRANT FOUNDATION

Associate Alexander J. Bandza is a founding member of a unique grant foundation called The Associates' Committee. Comprising 200 associates from "some of America's most celebrated law firms," the Committee awards grants to the most promising and deserving public interest organizations in the country. Grants range from \$25,000 to \$75,000. Associate Keisha N. Stanford is on the board.

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Mr. Suskin

### JUDGE DISMISSES LAWSUIT CHALLENGING MERGER OF IBM AND MERGE HEALTHCARE

Partner Howard S. Suskin led the litigation team that won a victory for Merge Healthcare directors when a judge dismissed with prejudice a lawsuit challenging IBM's \$1 billion acquisition of Merge.

A group of former Merge Healthcare stockholders alleged that the sale to IBM was improper and sought post-closing damages against Merge's directors.

### GRANT R. FOLLAND MEMORIAL SCHOLARSHIP: KATHRINE GUTIERREZ

Kathrine Gutierrez received the 2017 Grant R. Folland Memorial Scholarship. Kathrine earned her B.A. from Colorado College. After college, she worked to secure legal assistance and housing for trafficked women in New York and arranged several press appearances with CNN International and Newsweek Online to highlight their cases. As a student at the University of Chicago Law School, she works as a research assistant and is a JumpStart Pipeline Program mentor. The firm established the scholarship in 2012 in memory of associate Grant Folland. It provides financial support to a rising second- or third-year University of Chicago law student who demonstrates an ongoing commitment to lesbian and gay rights.



Ms. Chapuis

### TEAM WINS VICTORY FOR SOUNDEXCHANGE

Partner Emily Chapuis was a member of the team that won a victory for SoundExchange when the DC Circuit Court of Appeals revived its lawsuit against Muzak. SoundExchange administers the statutory license on behalf of recording artists and copyright owners; it alleged that Muzak was using a be-

low-market rate in circumstances beyond those that Congress had envisioned in 1998, when it grandfathered certain music services into the low rate standard. Originally brought in 2015, the suit was dismissed by the DC District Court last year. In reversing the dismissal, the DC Circuit explained that the grandfather provision relied on by Muzak to justify its use of the lower rate should be construed narrowly, lest it defeat Congress's purpose of moving the music industry to market rates.

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their gender identity and preventing local governments from extending protections in employment and public accommodations based on sexual orientation and gender identity, HB 142 violates the United States Constitution and federal laws prohibiting discrimination on the basis of sex," the complaint reads. The firm is co-counsel with the Lambda Legal Defense and Education Fund and the American Civil Liberties Union of North Carolina. Partner Scott B. Wilkens leads the team, which also includes Partner Luke C. Platzer and Associates Andrew Noll, Benjamin Brysacz, Lorenzo G. Di Silvio and Thomas D. Garza. Earlier this year, the firm filed a US Supreme Court amicus brief on behalf of 20 leading medical and mental health organizations that supported Gavin Grimm, a transgender male student in Virginia. Mr. Grimm sued the school board for its discriminatory bathroom policy that segregated transgender students from their peers. The brief argued that access to single-sex facilities corresponding to one's gender identity is essential for the wellbeing of transgender individuals. In March, the US Supreme Court sent the case back to the Fourth Circuit. In May, the firm filed a Fourth Circuit amicus brief on behalf of the same organizations and making the same arguments. The team working on these briefs is led by Scott Wilkens and includes Associate Benjamin Brysacz.



Ms. Harrison

**AMICUS BRIEFS  
ADVOCATE FOR SEVERAL  
CAUSES, CASES**

**Partner Lindsay C. Harrison wrote a variety of amicus briefs, including those that:**

- Challenged Mississippi’s law against same-sex sexual contact. On behalf of the DKT Liberty Project and Cato Institute, the brief, in support of the plaintiffs in *Doe v. Hood*, argued that *Lawrence v. Texas* “made clear that all state anti-sodomy laws are invalid.” According to the brief, narrowly enforcing sodomy statutes to only certain plaintiffs or fact patterns is not within the power of the courts and violates the Constitution’s separation of powers principles.
- Challenged the constitutionality of a city ordinance that criminalized the sale of sexual devices. On behalf of the DKT Liberty Project and Cato Institute, the brief argued that a 2004 precedent in *Williams v. Attorney General*, holding that an Alabama sex-toy sales ban did not violate the Fourteenth Amendment’s Due Process Clause, should be overturned. *Williams*, the brief argued, is inconsistent with precedent in *United States v. Windsor* (finding unconstitutional the Defense of Marriage Act’s definition of marriage as between a man and a woman) and *Obergefell v. Hodges* (recognizing same-sex marriage across the United States).
- Challenged President Trump’s executive order on immigration, originally signed in January. The president’s order blocked entry to the United States for 90 days for citizens of seven predominantly Muslim countries: Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen. On behalf of 32 major colleges and universities, the brief explained that the executive order would harm students and faculty, impede research and academic cooperation and damage American colleges and universities.
- Urged the US Supreme Court to settle the validity of military commissions’ jurisdiction to try domestic offenses. Two briefs, written on behalf of the National Institute of Military Justice, argued that it is time for the Court to settle the jurisdictional bounds of the military commissions, rather than allowing the commissions to continue to operate under a cloud of illegitimacy.



Mr. Pearsall

**QUESTION-AND-ANSWER WITH PATRICK PEARSALL:  
“SEEK OUT WHAT INTERESTS YOU”**

Patrick W. Pearsall was the highest-ranking openly gay lawyer at the US Department of State before joining Jenner & Block this June. The chief of Investment Arbitration from 2015 to 2017, he is now a partner in our Washington, DC office. He serves as chair of the newly formed Public International Law Practice. Patrick is also a member of three of our practice groups: International Arbitration, Government Controversies and Public Policy Litigation and Energy. In addition to being an adjunct professor at Georgetown Law Center, he is a passionate volunteer and mentor.

**Q: What are your goals for launching the new practice at the firm?**

The Public International Law Group focuses on international disputes, treaty interpretation, and global investment protection. Helping clients — whether they are states or private entities — solve international disputes peacefully is rewarding both personally and professionally. These disputes are often complex and may involve issues of public law that generate a great deal of interest by the public. I am excited to work with the talented lawyers here to serve our clients in these matters and contribute to Jenner & Block’s premier reputation as a firm dedicated to excellence.

**Q: As a mentor to law school students, what advice do you offer most frequently?**

Whenever possible, seek out what interests you — don’t worry too much about having a destination or plan. Much of your career will be a result of yet unknown opportunities that will come about by enjoying your work.

**Q: When and how did you decide to forge a career in international arbitration?**

That is a very difficult question to answer, primarily because it happened slowly and was not necessarily a “decision.” I knew early in law school that I wanted to be a litigator. I also knew that I wanted my career to have an international component and allow me to do public service. With luck, a class on international arbitration was offered my 2L year and I took it without many expectations on the theory that it was both international and would allow me to litigate. That decision, and some luck, allowed me to get to Paris after law school for a clerkship and to start working on arbitrations. The public international law aspects of international investment arbitration were still relatively nascent when I graduated law school, and I was fortunate to work on some of the bigger cases early in my career as an associate.

**Q: What unique challenges (if any) do you face as an LGBT lawyer?**

It’s not always easy representing American values of inclusion and equality when serving as a diplomat (and lawyer) in a foreign country in an often adversarial negotiation or dispute. I worked at the State Department for over eight years and went to some places that were not always comfortable for LGBT people. Many LGBT people face significant danger in some of the world’s countries in which the United States has diplomatic relations. That said, it was the greatest honor of my life to represent the United States and its values in those places as a proud LGBT person. I guess you could say it was both a challenge and an opportunity to share our understanding of equality.

**Q: Over your career, you’ve handled international disputes with claims totaling nearly \$30 billion. What characteristics make you successful in this sector?**

One of the things I like most about international disputes is that they often go to hearing and therefore require good storytelling and teamwork. Any successes I have had are not mine alone but are successes shared within each unique team. You can only be successful representing clients internationally with a good team, and that is one of the main reasons I am excited to be joining Jenner & Block.

## RECOGNITIONS

### Chambers USA

**Christopher Dickinson** Insurance Dispute Resolution (Illinois)

### Illinois Super Lawyers

**Christopher Dickinson** Insurance Coverage

**Gail Morse** Tax

**Howard Suskin** "Top 100 Illinois Super Lawyers"; Securities Litigation

### Law360

**Lindsay Harrison** named to Law360's editorial board: Hospitality Law

**Adam Unikowsky** "Rising Star" Appellate

### Legal 500 US

**Christopher Dickinson** Industry focus - Insurance - Advice to Policyholders

**Howard Suskin** Dispute Resolution - Securities Litigation - Defense

### Oy!Chicago

**Benjamin Halbig** Double Chai in the Chi: 36 Under 36



Scott B. Wilkens (left) and speaker Jameel Jaffer

### SPEAKER JAMEEL JAFFER SAYS DIVERSITY MAKES THE WORLD MORE EFFECTIVE

"It is very difficult to be effective in the world if you do not have a diverse team. Without a diverse team, it is too likely that you will either overlook, undervalue or misunderstand an argument," said Jameel Jaffer, the inaugural director of Columbia University's Knight First Amendment Institute and former deputy legal director at the American Civil Liberties Union (ACLU) who was the keynote speaker for the firm's 16th Annual Diversity Dinner.

Jameel made his remarks before 190 lawyers, summer associates, Jenner & Block diversity scholars and others attending the event on June 27 in the Chicago office. After an introduction by Partner Susan J. Kohlmann, chair of the firm's Diversity & Inclusion Committee, Jameel participated in a casual Q&A-style interview with Partner Scott B. Wilkens, of the Washington, DC office. He spoke about leaving Canada to pursue education in the United States and staying on as work and life opportunities presented themselves. While working in private practice, Jameel did pro bono work for the ACLU, which led to a full-time position there shortly after the 9/11 attacks.

Jameel remained with the ACLU for 14 years. During that time, he litigated some of the most significant post-9/11 cases involving national security and civil liberties. Much of this work involved seeking disclosure of government information and included a US Supreme Court case - *Clapper v. Amnesty International* - that Jameel argued as Hurricane Sandy was hitting Washington, DC.

The Knight First Amendment Institute, which opened in January, was established by Columbia University and The John S. and James L. Knight Foundation to preserve and expand First Amendment rights in the digital age.



Mr. Unikowsky



Mr. Pearsall

### ADAM UNIKOWSKY AND PATRICK PEARSALL NAMED AMONG "BEST LGBT LAWYERS UNDER 40"

Partners Adam G. Unikowsky and Patrick W. Pearsall are recognized in the LGBT Bar Association's 2017 list of the "Best LGBT Lawyers Under 40." The award recognizes outstanding lesbian, gay, bisexual and transgender legal professionals under age 40 who have distinguished themselves in their field and demonstrated a commitment to LGBT equality. Other firm lawyers who previously received this honor include Partners Lindsay C. Harrison, Luke C. Platzer and Scott B. Wilkens.



**Human Rights Campaign**  
100% rating in Corporate Equality Index - 2017

For the 12<sup>th</sup> year in a row, Jenner & Block earned a perfect rating in HRC's "CEI" survey



### Equality Illinois - 2017

Based on the results of EQIL's 2017 Law Firm Survey, Jenner & Block was again recognized as a leading law firm in providing equal treatment for LGBT lawyers and staff and engagement with the LGBT community-at-large



### Vault.com - Career Intelligence

In Vault's 2018 ranking, Jenner & Block ranked #6 nationally as a "Best Law Firm for LGBT Individuals"



### National LGBT Bar Association

Partners and associates have been named "Best LGBT Lawyer Under 40" by the National LGBT Bar Association in 2010, 2011, 2012, 2014, 2016 and 2017

## OUR LGBT LAWYERS

**Ali Arain** Associate  
**Nicholas Ballen** Associate  
**Alexander Bandza** Associate  
**Emily Chapuis** Partner  
**Matthew Cipolla** Partner  
**Scott De Nardo** Staff Attorney  
**Christopher Dickinson** Partner  
**David Diesenhouse** Associate  
**Lorenzo Di Silvio** Associate  
**Brendan Donahue** Associate  
**George Ellis** Staff Attorney

**Matthew Feldhaus** Associate  
**Victoria Fitzpatrick** Associate  
**Thomas Garza** Associate  
**Benjamin Halbig** Associate  
**Lindsay Harrison** Partner  
**Rémi Jaffré** Associate  
**Emily Loeb** Special Counsel  
**Emily McWilliams** Associate  
**Calvin Mohammadi** Associate  
**Gail Morse** Partner  
**Rafi Mottahedeh** Associate

**Joshua Parker** Associate  
**Patrick Pearsall** Partner  
**Luke Platzer** Partner  
**Manuel Possolo** Associate  
**Derek Stegelmeier** Staff Attorney  
**Andrew Sullivan** Associate  
**Howard Suskin** Partner  
**Adam Unikowsky** Partner  
**John VanDeventer** Associate  
**Scott Wilkens** Partner