

From: [Colangelo, Matthew \(OASG\)](#)
To: [Shaw, Cynthia K. \(JMD\)](#); [Weinsheimer, Bradley \(ODAG\)](#); [Sooknanan, Sparkle \(OASG\)](#)
Subject: RE: Colangelo 502 authorization in U.S. v. California
Date: Sunday, February 7, 2021 4:26:50 PM

Thank you very much –
Matthew

From: Shaw, Cynthia K. (JMD) <(b) (6)>
Sent: Sunday, February 7, 2021 12:17 PM
To: Weinsheimer, Bradley (ODAG) <(b) (6)>; Colangelo, Matthew (OASG) <(b) (6)>; Sooknanan, Sparkle (OASG) <(b) (6)>
Subject: RE: Colangelo 502 authorization in U.S. v. California

You are right, Brad. The reference to Boynton is incorrect and should have been Colangelo.

Matthew and Sparkle, Here is the authorization for Matthew to work on the U.S. v. California matter.

Cindy

From: Weinsheimer, Bradley (ODAG) <(b) (6)>
Sent: Saturday, February 6, 2021 9:49 PM
To: Shaw, Cynthia K. (JMD) <(b) (6)>
Subject: Re: Colangelo 502 authorization in U.S. v. California

At the end of the second paragraph, there is a reference to Boynton working for the NY AG's office. I assume that should have been Colangelo, as is made clear later in the justification.

Based on the facts presented, it would appear that the likelihood that a reasonable person with knowledge of the facts would question Colangelo's impartiality is somewhat low in the first place.

Having reviewed the factors in 5 CFR 2635.502(d), I agree that authorization is otherwise appropriate. Colangelo has no financial interest affected by the matter, nor does his former client. He did not work on the matter in the NY AG's office. A number of people will work on the matter at DOJ, and the role of the Associate's Office is of some importance. The NY AG's Office is not a party but is one of numerous amici in a matter pending before the Supreme Court. Given the importance of the matter, the lack of a financial relationship of the NY AG's Office or Colangelo, the lack of indicia of partiality of Colangelo in the matter, and the overall government interest in his participation, I authorize Colangelo to participate, to the extent such participation is necessary.

Thanks, Brad.

On Feb 6, 2021, at 5:35 PM, Shaw, Cynthia K. (JMD) <(b) (6)> wrote:

Brad,

I recommend that you authorize Matthew Colangelo, Acting Associate Attorney General, to participate in *U.S. v. California*, now pending in the Eastern District of California. This case concerns whether federal law preempts California's law, SB 822, on net neutrality.

A filing in the matter is due Tuesday, February 9, 2021. (b) (5)

[REDACTED]

Under the Standards of Conduct addressing impartiality in the performance of duties, a federal employee may not participate in a matter where circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality and when a person with whom he has a covered relationship is or represents a party to a matter. 5 C.F.R. § 2635.502(a). An employee has a covered relationship with any person for whom the employee has, within the last year, served as an attorney, partner, or employee. 5 C.F.R. § 2635.502(b)(1)(iv). Mr. Colangelo worked for the New York Attorney General's Office within the last year.

Although Mr. Colangelo has a covered relationship with the New York Attorney General's Office, a filer of an amicus brief is not a party to a matter. Therefore, he does not need to recuse pursuant to 5 C.F.R. § 2635.502(a). The practice of the Departmental Ethics Office, however, is to analyze participation in a matter in which a former employer files an amicus under the impartiality regulation's "catch-all" provision at 5 C.F.R. § 2635.502(a)(2). That provision states that an employee who is concerned that "circumstances other than those specifically described in this section" could cause a reasonable person to question his impartiality may determine whether he should participate. The regulations provide that even if recusal is appropriate, an employee may seek an authorization to participate. 5 C.F.R. § 2635.502(d).

An authorization to participate in a matter may be given if the agency designee determines that the government's interest in the employee's participation in a particular matter involving specific parties outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. 5 C.F.R. § 2635.502(d). (b) (5)

[REDACTED]

The appearance of lack of impartiality in this matter is low. Mr. Colangelo's former employee is not a party in this matter. As an amicus, New York does not have a party's direct interest in the outcome of this litigation. Its amicus brief is only one of seven filed in the case. New York's interest, (b) (5) [REDACTED] it does not have a financial interest in the matter. Although the amicus was filed while Mr. Colangelo was employed by the New York Attorney

General's Office, (b) (5)

He did not work on the brief himself (b) (5)

(b) (5)

(b) (5)

I recommend that you, as agency designee, approve an authorization for his participation in *U.S. v. California*.

Cindy

Cynthia K. Shaw, Director
Departmental Ethics Office
145 N Street, NE
Suite 8E.310
Washington, DC 20530

(b) (6)

From: [Weinsheimer, Bradley \(ODAG\)](#)
To: [Shaw, Cynthia K. \(JMD\)](#)
Subject: RE: Colangelo 502 Texas S.B. 8
Date: Thursday, September 16, 2021 1:55:15 PM

I agree that it is not at all clear that a reasonable person with knowledge of the relevant facts would question Mr. Colangelo's impartiality as a result of the amicus filing by the NY State AG's office. Indeed, I do not think a reasonable person with knowledge of the relevant facts would question Mr. Colangelo's impartiality in the circumstances presented, particularly where the NY State AG's office is just one of 24 states to file amicus briefs and the issues presented by NY are neither unique nor of the type that would suggest impartiality by Mr. Colangelo.

Even if Mr. Colangelo's impartiality reasonably could be questioned, I authorize his participation, given the sensitivity of the issues in the litigation, its importance to the Department, Mr. Colangelo's important role in the case to date, and his lack of financial interest or stake in the NY State AG's Office. Applying the factors of 5 C.F.R. § 2635.502(d), the interest of the government in Mr. Colangelo's participation outweighs any concern that a reasonable person may question the Department's integrity in the case.

Thanks, Brad.

Brad Weinsheimer
Associate Deputy Attorney General
Department of Justice
950 Pennsylvania Ave., NW, Rm. 4113
Washington, DC 20530

(b) (6)

(b) (6)

From: Shaw, Cynthia K. (JMD) <(b) (6)>
Sent: Thursday, September 16, 2021 1:36 PM
To: Weinsheimer, Bradley (ODAG) <(b) (6)>
Subject: Colangelo 502 Texas S.B. 8

Brad,

I recommend that you authorize Matthew Colangelo, Principal Deputy Associate Attorney General, to participate in *U.S. v. Texas*, now pending in the Western District of Texas. This case concerns Texas S.B. 8, which prohibits most abortions within the state after six weeks gestation, prohibits "aiding or abetting" any abortion that violates S.B. 8, and gives private citizens authority

to enforce the law.

Mr. Colangelo has been working with the Civil Division on the federal government's lawsuit challenging Texas S.B. 8 (the Texas matter). The Department's lawsuit was filed September 9, 2021. On September 14, the Department filed a motion for a TRO or preliminary injunction. On September 15, 24 states filed an amicus brief in support of the Department's position. The brief was authored by the Massachusetts AG's office and was signed by the NY AG. (b) (5)

Under the Standards of Conduct addressing impartiality in the performance of duties, a federal employee may not participate in a matter where circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality and when a person with whom he has a covered relationship is or represents a party to a matter. 5 C.F.R. § 2635.502(a). An employee has a covered relationship with any person for whom the employee has, within the last year, served as an attorney, partner, or employee. 5 C.F.R. § 2635.502(b)(1)(iv).

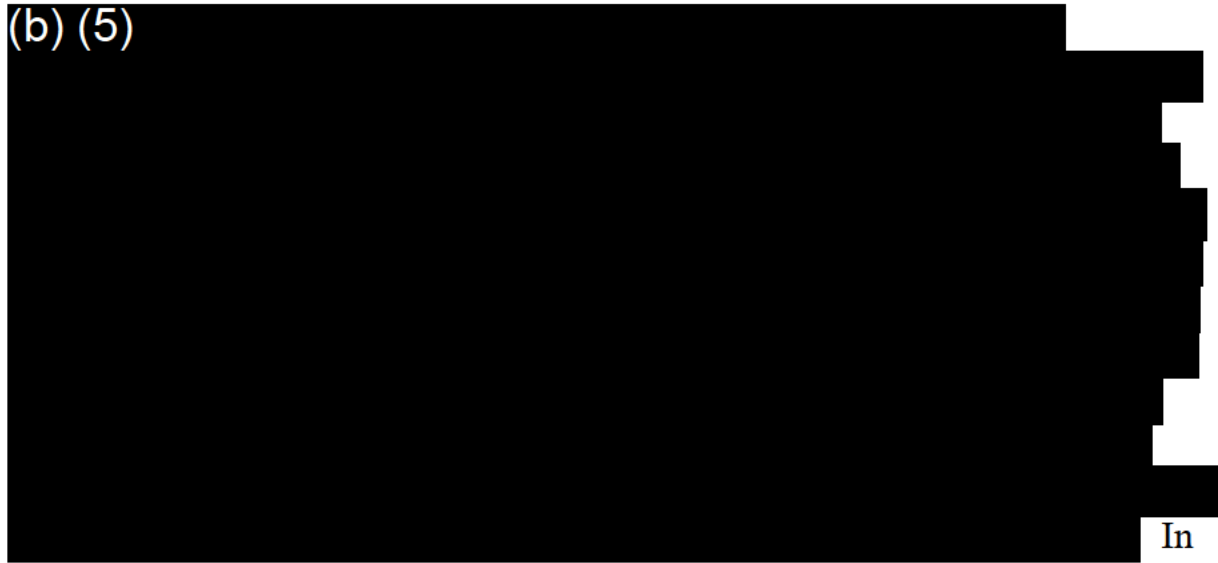
Mr. Colangelo has a covered relationship with the New York Attorney General's Office; however, a filer of an amicus brief is not a party to a matter. Therefore, his recusal is not required under 5 C.F.R. § 2635.502(a). The practice of the Departmental Ethics Office, however, is to analyze participation in a matter in which a former employer files an amicus under the impartiality regulation's "catch-all" provision at 5 C.F.R. § 2635.502(a)(2). That provision states that an employee who is concerned that "circumstances other than those specifically described in this section" could cause a reasonable person to question his impartiality may determine whether he should participate. The regulations provide that even if recusal is appropriate, an employee may seek an authorization to participate. 5 C.F.R. § 2635.502(d).

For the reasons set forth below, it is not at all clear that a reasonable person would question Mr. Colangelo's participation in the Texas matter. (b) (5)

An authorization to participate in a matter may be given if the agency designee determines that the government's interest in the employee's participation in a


particular matter involving specific parties outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. 5 C.F.R. § 2635.502(d).

(b) (5)




In short, New York's interest in the matter is not unique. New York is only one of the 24 states that signed on to the brief expressing broad and shared interests, not individualized interests, of the States.

(b) (5)



(b) (5)

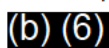


I recommend an authorization for his participation in the Texas matter.

Cindy

Cynthia K. Shaw
Director
Departmental Ethics Office
U.S. Department of Justice

(b) (6)





U.S. Department of Justice

Antitrust Division

July 5, 2022

To: Vanita Gupta
Associate Attorney General

Through: Cynthia Shaw
Director, Departmental Ethics Office

From: Tracy Fisher
Ethics Officer, Antitrust Division

Re: Recommendation to authorize Assistant Attorney General Jonathan Kanter to participate in the Antitrust Division's prosecution of Teva and Glenmark for alleged criminal violations of the antitrust laws with respect to generic pharmaceuticals

I recommend that you authorize Antitrust Division Assistant Attorney General Jonathan Kanter to participate in the Division's investigation and prosecution of an alleged conspiracy to set the price of certain generic drugs involving Teva and Glenmark. (b) (5)

[REDACTED]

Background: Since the fall of 2014, the Antitrust Division has been investigating price fixing, market allocation, bid rigging and other anticompetitive conduct in the generic pharmaceutical industry, specifically with respect to the sale of generic drugs.

Although the Antitrust Division may investigate conduct across an industry, the Division ultimately must prove beyond a reasonable doubt that a specific company or individual engaged in a conspiracy (i.e., an agreement) to violate the antitrust laws in connection with a specific product. Accordingly, the Division's indictments specify individual products and conspiracies involving specific individuals from specific companies.

The Antitrust Division's criminal investigation into anticompetitive agreements in the generic pharmaceutical industry has resulted in charges against seven pharmaceutical companies, and four senior executives, for conspiring to fix prices, rig bids, and allocate customers for certain generic drugs. Of the seven companies, five have admitted to the charged conduct and, to resolve the allegations, have entered into deferred-prosecution

¹ I consulted with Cynthia Shaw, Director of the Departmental Ethics Office, and, based on the facts as presented, (b) (5).

agreements (DPAs). Under these deferred-prosecution agreements, the companies collectively have agreed to pay over \$426 million in criminal penalties for collusion that affected over \$1 billion of generic drug sales. Three of the four executives have pleaded guilty.

In August of 2020, the Antitrust Division indicted Teva Pharmaceuticals USA Inc. and Glenmark Pharmaceuticals Inc., USA, the American subsidiaries of two of the largest generic drug makers in the world, for participating in criminal antitrust conspiracies. Glenmark is based in India, and Teva is based in Israel. The indictment charges Teva and Glenmark with conspiring to fix prices, rig bids, and allocate customers for the generic drug pravastatin, a widely used cholesterol medication, and other generic drugs. The conduct charged in *United States v. Teva and Glenmark* occurred between 2013 and 2015. The indictment also charges Teva for its roles in conspiracies with other competitors to fix prices, rig bids, and allocate customers for generic drugs. *United States v. Teva and Glenmark* is now awaiting trial. (b) (5)

[REDACTED]

Prior Work of AAG Kanter: (b) (5)

[REDACTED]

Relationship between Antitrust Division Criminal Investigation and Civil “Follow-On” Multi-District Litigation: (b) (5)

[REDACTED]

(b) (5)

[REDACTED]

²(b) (5)

(b) (5)

(b) (5)

I. Ethics Analysis

(b) (5)

The Department has also been sensitive to appearances of partiality where the official's former firm represents, or the official's former client is, a person or entity that is not a party but is otherwise significantly affected by a matter. In these situations, the Department applies the "catch-all" provision in 5 C.F.R. § 2635.502, which states that, if circumstances other than those specifically provided in the regulation may cause an official's impartiality to be questioned, the Department should use the process provided in the regulation to determine whether the official should participate in a particular matter.

The factors to be considered in deciding are (1) the nature of the relationship involved; (2) the effect that resolution of the matter would have upon the financial interests of the person involved in the relationship; (3) the nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter; (4) the sensitivity of the matter; (5) the difficulty of reassigning the matter to another employee; and (6) adjustments that may be made in the employee's

³(b) (5)

duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

II. Analysis

The six factors to be considered in deciding whether an official may participate in a particular matter are addressed below.

(1) *The nature of the relationship involved.*

(b) (5)
[Redacted text block]


(b) (5)
[Redacted text block]

(b) (5)
[Redacted text block]

(b) (5)
[Redacted text block]


⁴(b) (5)
[Redacted footnote text]

(b) (5)


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(2) The effect that resolution of the matter would have upon the financial interests of the person involved in the relationship.

(b) (5)


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(b) (5)


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(3) The nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter.

(b) (5)

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⁵(b) (5)

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(b) (5)

(b) (5)

(b) (5), (b) (7)(A), (b) (7)(E)

(4) *The sensitivity of the matter.*

(b) (5)

(5) *The difficulty of assigning the matter to another employee.*

(b) (5)

(6) *Adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.*

(b) (5)

(b) (5) [REDACTED]

IV. Conclusion

(b) (5) [REDACTED]

Approved: /s/ Vanita Gupta

Not Approved: _____

⁶(b) (5) [REDACTED]

From: [Weinsheimer, Bradley \(ODAG\)](#)
To: [Tirrell, Joseph W. \(JMD\)](#)
Subject: RE: 502 Authorization SG Prelogar - Strzok v. Garland
Date: Tuesday, May 9, 2023 1:14:12 PM

I don't think that a reasonable person with knowledge of the relevant facts would question SG Prelogar's impartiality. She and Former FBI Deputy Assistant Director Peter Strzok briefly were colleagues on the same investigation. Based on the facts presented, I don't think there is enough to suggest a personal relationship or any other covered relationship that would implicate impartiality concerns.

But assuming someone were to disagree, I agree that authorization is appropriate, and I approve it. Having considered the factors of 5 C.F.R. § 2635.502(d), I agree that the government's interest in SG Prelogar's participation far outweighs any appearance problem, which as noted is extremely low. On the other hand, whether to seek mandamus in a matter is a determination for which the SG's views are highly important. The government's interest in SG Prelogar's participation in the matter outweighs the concern that a reasonable person may question the integrity of the Department's programs and operations.

Thanks, Brad.


Brad Weinsheimer
Associate Deputy Attorney General
Office: (b) (6)
Cell: (b) (6)
(b) (6)

From: Tirrell, Joseph W. (JMD) <(b) (6)>
Sent: Tuesday, May 9, 2023 12:05 PM
To: Weinsheimer, Bradley (ODAG) <(b) (6)>
Subject: 502 Authorization SG Prelogar - Strzok v. Garland
Importance: High

Brad,

Solicitor General Elizabeth Prelogar has requested an authorization under 5 CFR 2635.502 to participate in *Strzok v. Garland*. Former FBI Deputy Assistant Director Peter Strzok has filed a wrongful termination case against the Department. Mr. Strzok was fired by the FBI due to his actions relating to his work on Special Counsel Robert Mueller's investigation. Ms. Prelogar was also assigned to that investigation and worked briefly with Mr. Strzok before he was removed.

(b) (5)



(b) (5)

Under the Standards of Conduct addressing impartiality in the performance of duties, a federal employee may not participate in a matter that is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter. 5 C.F.R. § 2635.502(a). In addition, an employee who is concerned that circumstances other than those specifically described in this section would raise a question regarding his impartiality should use the process described in the regulation to determine whether he should or should not participate in a particular matter. 5 CFR 2635.502(a)(2). The regulations provide that even if recusal is appropriate, an employee may seek an authorization to participate. 5 C.F.R. § 2635.502(d).

An authorization to participate in a matter may be given if the agency designee determines that the government's interest in the employee's participation in a particular matter involving specific parties outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. 5 C.F.R. § 2635.502(d). In this matter, the government's interest far outweighs any appearance problem.

(b) (5)

the appearance of impartiality is very low. (b) (5)

(b) (5)

. Assuming that a reasonable could question Ms. Prelogar's impartiality, the Department's interest in her involvement outweighs any appearance problem.

I recommend you authorize her participation.

Joseph W. Tirrell

Acting Director

Department of Justice
Departmental Ethics Office

(b) (6)

Public Service is a Public Trust

From: Prelogar, Elizabeth B. (OSG) <(b) (6)>
Sent: Tuesday, May 9, 2023 9:41 AM
To: Tirrell, Joseph W. (JMD) <(b) (6)>
Subject: Strzok case

Joe –

As we just discussed, an appeal authorization request came across my desk yesterday in a suit filed by former FBI Deputy Assistant Director Peter Strzok against DOJ and the FBI arising out of his termination. (b) (5)

[REDACTED]

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. Please let me know if you need any additional information about this.

All best,
Elizabeth