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AI Ignition
Ignite your AI curiosity with
Keith Sonderling

Beena Ammanath: Hi everyone, my name is Beena Ammanath, and I lead our global Deloitte AI Institute. And today on AI Ignition we have Keith Sonderling, Commissioner of the US Equal Employment Opportunity Commission, or EEOC. And he is also the adjunct professor at George Washington University Law School. Prior to his confirmation to the EEOC in 2020, Commissioner Sonderling served as the acting and deputy administrator of the wage and hour division at the US Department of Labor before entering the department, Commissioner Sonderling was a labor and employment lawyer in Florida, advising companies on employment matters. Since joining the EEOC one of Commissioner Sonderling's highest priorities is ensuring that artificial intelligence and workplace technologies are designed and deployed consistently with longstanding civil rights laws. Keith, so excited to have you on the show today. And let's start with your background. You have a very wide spanning background. You've had a successful career in law, and then with the US Department of Labor before your current role as commissioner of the EEOC. Can you describe your role within the EEOC and why have you focused your office's attention on AI right now?

Commissioner Keith Sonderling: Thank you for having me. I've been doing labor and employment law my entire career. It's all I've done, it's all I know. So when I was in Florida, I was a management side labor and employment lawyer. So I was defending corporations and lawsuits and consulting with corporations and HR departments on labor and employment issues. So when I moved to Washington DC in 2017 to join the US Department of Labor, you could imagine what an experience that was for me, being a labor and employment lawyer to be able to now work on nationwide policy when it comes to all the areas related to employment law. And then I was nominated to be a commissioner on the Equal Employment Opportunity Commission, and I had to go through the senate confirmation, and I was confirmed two years ago in September of 2020.

I'm in Washington, so it's easy to talk about all these government soups of agencies. But the EEOC is an independent agency. And our mission is to prevent and remedy unlawful employment discrimination and advance equal opportunity for all in the workplace. So, the laws that we enforce here are not just for employees, it's also for applicants as well. And it prevents discrimination on all the big-ticket items: race, color, religion, sexual orientation and gender identity, pregnancy, national origin, age, disability, and applies to everything in the workforce. So hiring, firing, promotions, training, wages, benefits. It also prevents retaliation and harassment. So we have a lot on our plate. Pay discrimination, when you think about some of the big ticket issues in the news, such as the women's soccer team, all workplace harassment, including against women, pregnant workers, and older workers.

And then, with covid, everything related to you. All the accommodations employees wanted, remote work, vaccinations, caregiver issues. So that's really us. I like to say we are the premier civil rights agency for the workplace in the world because I truly believe it. So that's generally what we have on our plate, which is enough. So, you may be wondering why I'm on a podcast about artificial intelligence, because you didn't hear me list that as one of the protected categories. But, for me, since joining the EEOC, I've really made it my priority to address the use of artificial intelligence in the workplace. And I've been making a lot of noise about it for, for really good reasons. And the reason I'm here talking about AI, and the reason we'll talk more broadly about the government looking at AI is specific to HR and for CHROs and companies. Artificial intelligence is involved in the decision making cycle for employees.

And it has been for years. But right now that technology, and we'll talk about that, and how the pandemic really pushed us forward is being used on a mass scale. New products are constantly coming online, and really, employers who are buying these products, vendors who are making these products, and employees who are being subjected to these products, don't have the guidelines, don't have the best practices. A lot of people don't have the general potential awareness of the legal ramifications of using this technology. So, my raising awareness about this coming from my background, I want to see this work, I want to see this flourish. This is the future. Companies are going to have to use artificial intelligence in HR, very much like you discuss in your podcast on how they're using it, in all lines of business. But the difference here, when you're using AI in HR, as opposed to using it for business lines, you're dealing with some of the most fundamental civil rights in this country. And that's the ability to enter and thrive in the workforce. So I want to see this flourish, I want it to take off. So that's why I've gotten into this with everything else we have to deal with. I just thought it was so important to start discussing these issues.

Beena Ammanath: And Keith, you know, we hear so much about AI and the future of work and its impact on the workforce and you see these big headlines about robots taking over the world and robots replacing human workers, and you are in the middle of it, at the crux of future of work in a way. Right? So, can you set the stage for our listeners on how AI based technologies are being used in HR today, and specifically workforce acquisition, the hiring interview, screening part. How is it changing the HR tech for the future?

Commissioner Keith Sonderling: You brought up such a good point. So much of the headlines, and I read them too, are related to robots replacing workers, you think about this vision of all these robots in a factory and there's no humans there anymore. And look, that's what companies are hearing. There's a lot of stats on it. We both know about the World Economic Forum stat about how 85 million jobs are going to be displaced by AI. And also all the studies now showing that robot automation is getting so much cheaper than having workers. So, that is a conversation. Whether or not that's going to happen, that's a futuristic conversation. We're starting to see it now. But what I'm really focusing on and I want to talk about today, is the potential of AI to discriminate against potential workers and current workers.

Because whether you're aware of it or not, there's AI in HR software, in HR tech, that makes all the decisions once made by humans in HR. So, there's software out there that writes job descriptions, and we'll talk about all of them. Screen resumes, it chats with applicants, it conducts job interviews, and then there's software now that predicts if an employee will accept an offer, how much that employee will take for the offer, where that employee should be located in the country, where that employee should be located within the office itself. There's some more fringe technology out there that's controversial that will then maybe predict how one coworker will get along with other coworkers. But then, when the employee's there, suddenly AI is now assessing their skills, assessing their potential skills, tracking their productivity, doing their performance reviews, and picking a lot of times who is going to get these, another HR buzzword, upskilling and reskilling opportunities that are so popular now. And there's even AI software out there that if an employee falls short of expectations, it will tell them they're fired. So, this is not a conversation about the future. This is right now. And as you know, there are vendors out there for each one of those products there's dozens of vendors that will sell your company that software I described. And a lot of that is because of the need of employers to bring back employees into the workforce. The whole employee experience now of employees wanting to have their employers teach them new jobs, to have grow within that company, and the mass scale of hiring that's needed in the labor force now, it's almost impossible for humans to do it, for a company that needs to hire thousands and thousands of workers.

You don't have another thousand workers then to interview the 10,000 candidates that potentially apply. And then, even on the management side, especially now with these global workforces, which I know you're very heavily involved in, that 24/7 management and monitoring, and tracking of these workers is just almost just too much to be done by humans. So that's why I'm trying to raise awareness of this, what do you buy? How do you buy it? And for what purpose are you going to use it? Because as we'll discuss, there's a lot of potential great things about these products from removing what my agency cares about, which is bias, but also, we don't want it to discriminate more than humans can.

Beena Ammanath: And we've certainly seen some of those, big headline scenarios where, say a resume parsing algorithm product was released and it was obviously biased because when you look at historical data, we are kind of carrying and recording those biases that have existed in historical data. So how do you create a future where we want it to be the future we want and not necessarily to be replicating the past. How do you make sure that those biases from our past don't creep into the future that we want to create in the tools that we are building today.

Commissioner Keith Sonderling: That's such a great point. And a lot of the AI bias as a whole used across other industries are taking examples from my space. But I think it's important to set the table here, especially for me, my personal view is that if we can carefully

design AI, then we can properly use it. So there's two parts of that. There's the design part, which will then cover how you make it, whether the algorithm or the data side, and then the proper use part, which is who is controlling it? How are you actually using it? Are you using it for its intended purposes, or are you using it for another potentially unlawful way? So, I think it's important to understand the two differences there. But for me, if it meets both carefully designed and properly used in my space, it does have the potential to advance diversity, inclusion, accessibility, all the things that corporations really care about now by mitigating the risk of unlawful discrimination.

And how do you do that? By removing the person who's discriminating, by removing the human and that potential bias from that equation. But at the same time, you could flip everything I just said. If it's poorly designed, which I'll give you examples of, with bad data sets, discriminatory algorithms that allow you to discriminate off a neutral data set, or if it's carelessly implemented by allowing people access to it to make decisions that could potentially bind the companies who shouldn't be making those discriminatory decisions, it can discriminate on a scale and magnitude far greater than any individual HR professional. And taking a step back, I know we're talking about technology here, but don't forget, a lot of this is just the same issues we have in HR with humans now, right? About making those discriminatory decisions. So, the analysis is not that far off, but in the human resources space, suddenly now that data which you mentioned is coming into play. Because, having a bad HR decision, let's just take a step back.

The consequence, and this doesn't have any technology, if you discriminate against certain workers, religion, national origin, it has terrible consequences. It creates a toxic work environment. It could damage your profitability. The headlines, we saw that with the Me Too Movement of how devastating it was for companies and careers, but it's the same as AI, it's only as good as how you use it and the data and information that you're using to make those decisions. So that's really what I'm trying to raise awareness of is that yes, it's new technology. Yes, it's futuristic. Yes, it's helped scaling everything, but at the same time, the basics, those fundamental principles of the civil rights laws from the 1960s apply to these technologies with equal force as they did since the 1960s laws were passed for people just making decisions with a pen and paper. So that is a concept that I'm really trying to raise awareness of, because sometimes with technology it gets so far ahead, and you're saying, "Well, we need new laws now. We need new regulations." Well, let's just slow down for a minute and let's just compare it to decisions that have been made for a long time.

Beena Ammanath: Do you also think about this notion of humans working with machines together? When you have AI that's doing parts of a human's job, how do humans and machines work most effectively together? Is that something that you think about as well?

Commissioner Keith Sonderling: I do from a perspective of, as employers automate things, you can't have a set it and forget it approach to HR technologies. Maybe you can, for building something, maybe you can for looking through thousands of pages of documents, looking for an image or words. But when it comes to this technology, a human has to still be in the loop. Because it still needs to check the decisions that the algorithms are making, the data the algorithm is using, and then, in something we'll talk about in a few, about the whole workplace monitoring and using AI to track productivity. Is there a reason why that employee is not performing the way they should be? And can the computer understand that might be because the employee is pregnant? Can the computer understand that might be because the employee is disabled, and would need an accommodation? A human would. So, I think it's very important, specifically in my space, related to the HR technology for employment decisions, to continue to have that awareness that there has to be that human in the loop.

Beena Ammanath: And to just to build on top of it the nuance about the future of work, right? We talk a lot about how AI can automate certain parts of a job to remove the repetitive rudimentary tasks and help humans focus on the more creative, humane aspects of it. And an example that I personally experienced, and that got me thinking about how nuanced this whole notion of employee work is, think about an extra machine operator. My clean focus was on being able to predict when that machine would fail so that you can proactively send a field service engineer to fix it so that patients don't have to wait. And so now what happens is now the extra machine is up and running for longer periods of time, and it's also giving some diagnosis recommendations, and the employee has more free time. Is it up to the employers to think about what do they do in that free time? Because if you are expected to work for a certain number of hours and you freed up two hours a day for that employee by using AI, you know, I don't think just saying that, okay, you will be creative, doesn't work. So who needs to be thinking about that free time that has now been created in this role?

Commissioner Keith Sonderling: This is a really fantastic point you bring up. Part of the reason companies are using artificial intelligence is to make decisions more efficiently, effectively, and economically. So, in that we're taking away a lot of, potentially, parts of the job that humans don't like. Maybe parts of the jobs that were rites of passage for younger workers at some point, some would call it grunt work. For everything from that to for lawyers, maybe document review for others, for accountants, reading other documents. So now you're taking away some of those automated functions, and it can really be applied to any type of industry, whether you're professional or, or whether you're making widgets in a factory. So, this is such a key critical concept for HR to understand. Now that employees have this free time, and now that employees no longer have to do things that they hated doing, right?

There's no other way to say it - that they didn't want to doand we replaced it with a machine instead of the creating the fear of, "Oh no, my hours are going to be cut. Oh no, I'm going to be fired. Oh no, this is everything we've been reading about, that the robots are coming for

us." It has to be spun to the point where now we're saying that this free time is not just time to play around on the internet or wait for the AI to finish its job, it's time for you to help us identify what you want to be doing in your career, and how we can help you get to that next level of your career. And look, there's AI that helps people identify that. And there's AI that then will help employees identify other jobs within the institution to then be able to train for that actually can never be automated.

So I think that when it comes to some of these efficiencies, and the same goes for human resources. You know, some of the, the typical questions HR will get relating to maybe taking a medical leave, or needing copies of their insurance plans, if that could be handled by chatbots, what does that free up that function to do? It allows them to look at their workforce and say, "How can we skill certain areas? How can we provide different employee assistance programs or otherwise to help these workers thrive?" So I think this gap in time created by AI is only going to benefit the, what's probably well-known now as employee experience, and for employers to be able to help engage and keep their employees in a very competitive market, to be able to work, to do things that have much longer term value than potentially, some of those monotonous tasks that had to be done before. So, it is a different way to look at AI, and I think it's just the way that companies are messaging them, but actually taking action to make sure that then that those gaps are filled, that training occurs, and employees can really then have a very satisfying career all because of that decision to use AI.

Beena Ammanath: Keith, you said something earlier which, which I absolutely believe in. That AI and these technologies can actually drive more diversity, inclusion, and accessibility. Can you share a little bit more about why you think that's the case, and what examples are you seeing?

Commissioner Keith Sonderling: Absolutely. Let's start with the problem.

And that's the reason my agency exists, right? Because employees are discriminated against in the workplace, and bias has existed for a long time. You know, there's the very generic studies, that a male and female applying for the same exact job, the male is more likely to get selected than the female. There's studies that show that candidates who whiten their resumes, and that's by deleting references to their race, national origin, they're more likely to get picked if they don't have those indicators that they belong to a protected group, or different group there. And we never really know why those decisions are made. We talk so much in the AI world, there's a lot of talk about the black box of the AI and the code, but what about for HR professionals, or talent acquisition, or hiring managers?

You don't know what's in their brain, right? So this issue is not new for us here in labor employment because the human mind is obviously difficult to understand and we don't, absent communications, and, a lot of times in my area, it's depositions and lawsuits, we can never really know what those person's true motives are. But AI, it can mask for race, gender, age, disability, and other characteristics. It can mask for proxy terms that might indicate somebody's in a protected class such as sports teams or somebody's graduation date. And it really can remove some of that bias from the earliest stages of the hiring process. So, an example I like to use all the time, what a name—a candidate's name— what does that tell you about the person's ability to perform the job? Nothing. It shouldn't matter what's your name, you should be able to do the job, but what it does tell the potential employer, whether correctly or incorrectly, variables that have nothing to do with their ability to do the job. So there's national origin, religion potentially, or race. So, an AI enabled program that completely eliminates that would correct that problem of male resumes getting picked over female resumes more, or white candidates getting more selected than Asian American or African American candidates because of those characteristics. Also, when employers now, talking about more advanced technology, a lot of times interviews are not even occurring with a person. Yes. So they're done by a chat bot, and either they're done on video or you could record and let's, you know, take it the not using natural language processing to do an interview. So that's just recording your voice and making a transcript of it, and having AI analyze what you said and the words you order, specific to that job.

So that's a really good thing, right? Because if you're just asking questions about the job and the hiring manager never sees you, they just read a transcript of how you answer the jobs, and the AI tells you if these were the right or wrong answers based upon the way you answered them, or can tell you other stuff, that can really help prevent discrimination at the earliest stages. So, you go in for an interview, whether in person before the pandemic, or now on Zoom. Interview starts, what do you see? You see the person, and immediately what do you find out about the person? Their potential age, their sex, their race, if they're disabled, if they're pregnant, all these decisions, you as employers that the EEOC and federal law say you are not allowed to make a decision on.

But that's in your head. And you can't unsee that. And it's so easy if an employer wanted to discriminate at that point to say, "Well okay, she's pregnant, or this person's disabled, how much is this going to cost me? You know, she's going to have the baby and then go out and leave. I'm going to have to hire somebody else to replace her. Or this person's disabled, it's going to cost me tens of thousands of dollars in accommodations. Or this person's religiously observant, they're not going to be able to work on Sundays." Just, just by making that assumption. And you don't know that by seeing that. And you know, obviously all that is illegal, and you can't make that decision, but if somebody says it in their head all they have to do is say, "Well, there's other candidates with other similar skills going for them."

So going back to the natural language processing example, you see the words they said and they say, "Okay, this person had the best answer. I want to hire this person, this person is amazing." And then later on during the process you learn those things, but those people, candidates in those classes, were excluded from the workforce, just, just based on having been seen. And that's something certainly AI can very much

help with. But at the same time, if you want me to really raise the issues here, that sounds great, right? But now let's everything I have to say, because I still am a lawyer,you know, there's pros and cons. For instance, let's go back to that same example. What happens if the person has a heavy foreign accent?

What happens if the person is disabled and has a speech impediment? And if the transcription doesn't pick up the words they're saying based upon their accent, or based upon their inability to speak perfect because of a disability, what's going to happen? A person without a disability or with person without an accent, will score higher even if they say bad answers. So here you have the most qualified candidate with a very thick foreign accent. The computer only picks up 50% of what they're saying. You have somebody who speaks fluent English from America, and the computer picks up 99% of what they're saying, but their answers are not great. So right there, because potentially the software, or the training data set on foreign accents, you may have national origin discrimination for all those candidates that it can't pick up, or perfectly.

And I think that's a very important point to make is that, and we talked about what we said earlier about how you still have to have involvement. Because there may be a reason why the computer didn't pick up their transcript, and can't be based on those reasons we started the podcast with about those protected characteristics. So it's very important for employers and CHROs and in-house councils to be aware of this, because a lot of it is sold. And a lot of companies want to buy it for good reason: to eliminate bias. But can you imagine spending all this money buying a program that is meant to diversify your workforce, and then suddenly it's discriminating. And that's not good for anybody. It's not good for the employees, not good for the employers, nor is it good for the vendor selling this project. So it's something that there needs to just be a significant awareness of, and I'm really trying to do that.

Beena Ammanath: Yes. And Keith, that example was spot on. There are pros and cons to both. And I think most of the time the buyers, the vendors themselves may not be asking the right questions. They may not be thinking of those scenarios to be all inclusive. You and the EEOC have a very tough job ahead of you. Especially for protecting these civil right laws. So how are you planning to accomplish this? Can you share something about what your focus areas are, and how do you actually translate that reality?

Commissioner Keith Sonderling: I have to just briefly give you a quick law school lesson here to understand the two issues. And I think it's really important for businesses to understand that. So, there's basically two ways to discriminate. You can intentionally discriminate against somebody or you can have a neutral policy that as applied discriminates. So it's pretty basic law. And both of those apply to AI. So, on the neutral policy, we've all heard the examples of it, about companies who have wanted to use AI to diversify their workforce and find the best candidates, but then the AI just looks at their existing workforce. So, it only amplicates and replicates the potential existing bias. And the most infamous example is one company went to this resume screening program, AI, and said, "Find me the best workers."

And the AI said, "Okay, find me the best workers. Here are my best workers. Go find me more of them." And the AI said, the most likely indicators of success at your company is being named Jared and having played high school lacrosse. And that was supposed to diversify the workforce, but that shows you that their policy there was just to go find the best employees based on your existing workforce. It wasn't to discriminate and only find Jareds, or some example only find, in engineering, only find males. It was a function of the data fed to the AI in the first place. So that neutral data can potentially be discriminatory and the employer is still liable. The other side in the raising the awareness of is something really important is that AI can be used to intentionally discriminate.

And people may push back on that and say, "How's that possible? AI doesn't have any motives or intentions of its own. You just told us it's all about removing the human, and there's no human. So how could an AI computer have bias? How can it actually discriminate outside the data?" And this is something that's really important. And I alluded to earlier, about who has access to the system? If somebody goes in there and, it's a program that doesn't discriminate. Diverse data set. Completely indicative of your local workforce. It's diverse between nationality, women, ethnicity, it's fine. But then, if somebody goes in there and filters all those resumes and says, "Only show me men between 20 to 25 years old," then AI can essentially be used to discriminate, and that's by a few clicks of a button, can happen much more than one individual person going through resumes and throwing out older workers' resumes in the trash. So from a use perspective, I like to give those two examples for companies to realize that it's both, it's not just the data. It's also the misuse of it. So how can employers be careful about this? Well, no hands off, right? Because the inaccurate, incomplete, or unrepresented data is only going to amplify rather than minimize the bias in decision making. So, it's really when you're buying these programs or when you actually bought the program, you have to evaluate it support performance. You have to see if you're getting discriminatory results. And if you're getting discriminatory results, how did you get there? Is it the data set that needs to be adjusted?

Is it your workforce that needs to be adjusted? Is it your applicant pool that needs to be adjusted? Do you need to now go out to more diverse areas to post for the jobs to have a more diverse pool? If that's the problem. And then if you can't fix it, then you can't have a program that's going to discriminate. Maybe the fix was not allowing looking for different job qualifications. Maybe the fix is not allowing certain people access to it and having strong company policies related to that. So, I think that is, you know, just from the global perspective from employers of what you can look out for. But from the EEOC perspective, this is a big deal for us. It's a big deal across the federal government, which I know you've talked about and know about.

It's not just us, The FTC is interested, the USDA. AI is really touching every single federal agency in the areas we enforce. So, in October of last year, we formally announced initiative on AI in the workplace, and we're trying to examine as a formal commission initiative, how technology's fundamentally changing the way employment decisions are made. So, like I said earlier, we have three or four groups here. First and foremost, the employees who are being subject to this technology, the employers who are buying it, the vendors who are creating it, but also, as you know, a lot of money is going into AI, and a lot of investment is going into AI. So how do we also then work with a totally different group of investors to make sure that you're investing in products that are consistent with civil rights laws?

So we almost need to start, you know, when you talked about prevention of harassment, Me Too policies, or open door policies, we say in HR it needs to be commitment from the top, right, from the top of the company needs to make sure this is an open door environment. There's no sexual harassment. And that's how we've been very effective in getting cultures of not preventing discrimination. It's the same with AI. It has to go all the way to the investors of these products who don't also want to be on the hook for investing in products that are hurting civil rights in the workplace. We just have so many groups here, so as part of this initiative we're going to have internal work groups, listening sessions, and then identify those promising practices that everyone's looking for.

IWe've already released initial guidance in May that was very specific to the Americans with Disability Act, and how software can potentially help and potentially harm disabled workers in entering and thriving in the workforce. So, we've put out a little guidance so far. But for me, a lot of it is raising the awareness and getting to crowds The EEOC normally doesn't talk to, and it's in the tech world. That being said, as you know, I've been embraced, by the, the tech community. Everyone, to their credit, believe in their algorithms, believe that this is the future. We've seen a lot of, HR departments and large corporations also say, "This is the future, Let's just get it right." So, you know, how it's remarkable that the AI community has been wanting to work with us, because normally regulators, you run, you just wait.

But here we just have the opportunity to really be able to be on the forefront of creating the guidelines and practices that allow companies to use these products, that allow investments to continue to go into these products and allow tech engineers and people who understand AI, that are much smarter than me, like you, who actually knows what AI looks like from a computer coding perspective. I don't. To actually be able to create products comfortably that help diversify the workforce. It helps employees thrive in the workplace and find their best jobs and not have to do jobs they don't want to.

Beena Ammanath: And Keith, you touched something so rudimentary that I don't think technologists start out wanting to do harm, right? But they're so focused on just a positive value creation that they don't think about all the ways it could go wrong, the risks that come with it, and how do you address it.

Commissioner Keith Sonderling: And that's something we've talked about, and that's why it's so important to diversify the people the EEOC hears from and listens to. And from exactly what you just said, from the, the very, and I'll say it again, much smarter than lawyers: the very smart tech engineers who are creating the AI and, they're singularly focused on getting the project done and creating the product and not potentially seeing that big picture. So, I truly believe that, especially when it comes to workplace civil rights and preventing discrimination and preventing people from being discriminated based upon their religion, their national origin, their gender, their race, ethnicity, et cetera, that they wouldn't want to create products to do that. So, how do we also hear from those groups and bring that awareness to all parts of this very large AI community. But I have to say, everyone has so far really won, has embraced this, and that makes my job a lot easier in the sense where we can work together as opposed to that adversarial nature of most government interactions with industry.

Beena Ammanath: Thank you so much. So, Keith, changing gears a little bit, what are you most optimistic about? We talked about diversity, inclusion, accessibility, what are you most optimistic about beyond those for the future of AI's impact on HR and workforce management?

Commissioner Keith Sonderling: I just think that from a business perspective, like I said earlier, it's not a question anymore. Am I going to use AI in HR? Yes, you have to. There's no way you're going to be able to be competitive without being able to do that. Especially as workers are demanding a lot more from their employers. Workers are now looking to their employers to educate them, to provide a lot of other services that otherwise employers didn't have to do. So, for AI's role in this related to your current workforce, is that constant, and there's a lot of people who take a different approach about workforce monitoring, about privacy rights and saying, "It's too much, Big Brother and your employers watching over you." But the other approach to that too is that AI software that monitors your work in the sense where it gives you nudges, it tells you what to do.

I saw AI technology firsthand being used in a manufacturing facility, and it was telling the manufacturing workers what nuts to take, what bolts, a bunch of screws, they all look the same, but they're all different. And you have technology that says a green light on this one and a red light in the other ones, or a technology that doesn't even let you use the screwdriver unless you're screwing in the right bolt to the right place. And I think from a perspective of health, of safety of workers, I mean, that's really significant, and that's something that's not talked about as much, is that from a, a safety perspective, using AI to make sure you don't go in an area where it may be dangerous without the proper protective equipment, there's cameras now that will prevent you from going into a part of the factory that's dangerous if the camera doesn't see you're wearing glasses and have your helmet on.

So that not only helps the workplace experience from a safety perspective, but also from inefficiency perspective where for a lot of newer workers, or less skilled workers, who have that fear that they don't know how to do the job, that they're not smart enough to do the job, that they don't have the skills to do the job well. AI can really make it easy for them to gain that confidence by showing you exactly what to do and preventing you from messing up like a lot of new workers do. So, I'm very excited about that. But more getting back to from what my agency enforces, we should be embracing anything that helps eliminate bias, that helps prevent discrimination. And another example, I really think is a good AI and, one that we should be talking more about is job descriptions.

So, think about job descriptions. Historically a lot of employers, especially smaller companies, will just go on LinkedIn and copy a job description that sounds like theirs, or go on Google and find a job description. But what they don't realize they're doing it is they're potentially baking in bias from whoever created that job description. There may be requirements in there that are not actually relevant to the job. There's a lot of talk now about college degree requirements, and do you really need college degree for a lot of certain entry level jobs? And is the college degree requirement just in there because it's always been in there? So, using artificial intelligence actually can look at those current employees who are doing well and seeing, compare that with the job description, and do you really need these four requirements that may be excluding people? But also from another perspective, there's AI out there that goes through job descriptions and it tries to gender neutralize them.

So, a lot of the ways job descriptions are worded, there's been a lot of studies that show that people are less likely to apply. Now, let's talk about in the computer engineering area. You know, employers who go, I'm looking for a coding ninja, or looking for a rockstar, right? This has been baked in as very common. Doesn't seem controversial, but, if you think about a ninja, that may be a male, a rockstar may be a male, and that may dissuade women from applying. And you know, again, it wasn't intentional, because that's just some of the lingo. But it can have that effect. So, AI going through and saying, "Here's the words that are less likely to make people of certain national origin, religion, race not apply. If you change this to these words." I think that is, you know, a really fantastic use of AI and it creates solutions for a lot of the issues that prevent has actually caused discrimination in the past. So, I'm excited about that and from an EEOC commissioner perspective, I'm excited about anything that could help us meet our mission, which is to prevent and remedy employment discrimination. And I focus on the prevent and anything that could help remove that bias, we should be excited about because it only helps, it's basically technology helping us preventing employers from discriminating, which is the reason why we exist from the Civil Rights movements of the 1960s.

Beena Ammanath: So, you know, Keith, we get a lot of C-suite CIOs, CEOs, board members, CHROs, listening to our podcast. What advice do you have for senior leaders who are at various stages in their journey of implementing AI for their HR organizations, for their talent groups? What should they be considering and what should they be careful of as they start this journey?

Commissioner Keith Sonderling: Well,, like I said earlier, the first and foremost is that our laws apply to this technology. And there's a, there's this potential misconception that if I'm letting the computer make the decision and the computer has bias, that it's going to be the computer's fault. But there is no defense under the law that the robot made the decision, I'm not liable. Employers are liable for any decisions they make, whether it's made by a person or whether it's made by a computer. So, at the outset, it's important to know that any use of this technology, good or bad, the right reason or the wrong reason, liability's generally going to be the same, either way. So that a very, very important thing to remember before you decide to entrust an algorithm with someone's livelihood.

It's a very complex and important decision. And from my perspective, not for the companies to be concerned about, but the vendors making it is to develop it and utilize it in a manner that is consistent. And then for the companies who are buying it, what do you need to be looking for and what uses are acceptable to you and what are not? And look, it is a free country. If employers want to use some of the more controversial facial recognition, technology, or otherwise, and completely allow the computer to make that decision, that's really up to them. There may be significant legal consequences for that. But the key is, and I'll reiterate this, is that, the transparency, and look, right now when an employer makes a decision, it's often not known why that person didn't get hired.

Maybe they didn't meet the job qualifications, maybe it was because of their age. You really just don't know. But with AI, it can have more of a transparent record if you are saying, "Well, here is what we're using to determine the best characteristics of this job." So, there's no black box in a way. So, here's how we're designing these algorithms based upon the job. So, now here's the job we want, we have found the best workers have these skills, and have these characteristics, and this is how we're designing our AI to look for that. So, if you are not selected from that maybe it's because you don't have those skills or don't have those characteristics, as opposed to being let think, "I wasn't selected because I'm a woman, or I wasn't selected because I'm an African American."

So, in a, in a way that transparency, that explainability, which I know are buzzwords in the HR world, but it also applies to HR. But that's a very specific, you know, when you talk about accountability, transparency, explainability every AI book talks about that, right? But apply it now to this area, and I really do think it can actually be helpful and employees will be more understanding if they get the job or not get the job, or here's what you're lacking and we're going to teach that to you.

Beena Ammanath: Wow.

t**Commissioner Keith Sonderling:** And I do think that is a way that employers can really understand that. But, if you don't have that explainability, if you don't have that transparency, if you don't have those neutral metrics, the employees are in the same positions they are when they get a rejection letter saying, "Sorry, you're not qualified," and they'll never know why. So, in a sense, AI can really improve that..

Beena Ammanath: Keith, this has been an absolutely fascinating discussion, and I think we can continue this for hours, but unfortunately, we have to wrap up today's episode. So where can people stay connected with you? How can they keep in touch to learn about all the amazing work that you're doing, and how can they be part of this journey?

Commissioner Keith Sonderling: Well, I like to say nobody is selling me an AI product. You're selling you as corporate leaders, HR products, and you are the ones who know what the sales pitches are, who knows what your hesitancies are for buying the products, and I need to hear from you because you're the ones who may want to buy a product. But if the EEOC had said something, or if there was more guidance on this, you may feel more comfortable to buy that. But that's the information I need to know. So anytime, please reach out to me on LinkedIn, on Twitter, I'm everywhere, available on social media. So just, I'm happy to have these conversations with you because that's how we're going to learn, and that's how we're going to be able to make sure that you have the tools you need to be able to use these products, develop these products, invest in these products, the whole gamut.

Beena Ammanath: Keith, thanks again for being with us on the show today. And thank you to our audience for tuning into AI Ignition. Be sure to stay connected with the Deloitte AI Institute for more AI research and insights. Thank you.

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