

# Bragging Rights Go To Wilmer

It argued the most cases during high court's term.

BY TONY MAURO

Amid intense competition for a persistently small number of cases, Wilmer Cutler Pickering Hale and Dorr reached the top of the heap among law firms arguing the most cases at the U.S. Supreme Court in the term just ended.

Five Wilmer partners argued in eight cases—more than 10 percent of the 67 cases in which the court heard arguments. Four of those appearances came in a single two-week argument cycle in late March and April—more than in any recent cycle. The four-lawyer firm Goldstein & Russell, with five cases argued—and won—came in second to Wilmer.

Although most of Wilmer's cases involved pre-existing clients, Seth Waxman, chairman of the firm's appellate and Supreme Court litigation practice, said he was aware of the competition. "There are many, many lawyers who will do almost anything to get a Supreme Court case," he said.

Waxman, 63, argued four of the eight Wilmer cases himself. The firm's high numbers left room for four additional attor-

neys to make appearances, fulfilling the goal Waxman set when he joined Wilmer in 2001 after serving as U.S. solicitor general. "I wanted to build a group of lawyers I could mentor and really assist in their careers."

Wilmer partner Thomas Saunders, who argued his first Supreme Court case in March, said, "I felt there was a generational shift afoot. It was a very exciting term." Partner Mark Fleming, who argued in April,

agreed that "this is not just the overflow from Seth, but a conscious strategy to bring up the next generation." Saunders credited a "very deep bench" at Wilmer for the bandwidth that allowed five partners to argue last term. "It was all hands on deck."

But for lawyers arguing at the high court, last term wasn't just about large, "tall-building" law firms—a phrase Justice Antonin Scalia used derisively to describe lawyers who supported same-sex



## SCORECARD FOR LAW FIRMS

Three or more arguments in Supreme Court 2014-2015 term.

LAW FIRM	NUMBER OF CASES ARGUED	NUMBER OF LAWYERS WHO ARGUED	WINS	LOSSES
Wilmer Cutler Pickering Hale and Dorr	8	5	4	4
Goldstein & Russell	5	2	5	0
Hogan Lovells	4	2	2	2
Bancroft	3	1	1	2
Jenner & Block	3	3	2	1
Jones Day	3	3	0	3
Sidley Austin	3	2	0	3
Williams & Connolly	3	1	1	2

Note: *Omnicare v. Laborers District Council* has been counted as a win for the lawyers on both sides from Goldstein & Russell and Williams & Connolly because of the court's compromise.

# Supreme Court Bar Is 'Pretty Much Maxed Out'

marriage in the landmark case *Obergefell v. Hodges*.

In fact, four lawyers argued in the same-sex marriage case, and only one was from a major firm with an established Supreme Court practice: Douglas Hallward-Driemeier of Ropes & Gray.

Goldstein & Russell came in second to Wilmer on the list of firms with the most arguments. "We're happy to have had five arguments, and even happier to have won them all," Goldstein said. That number represents more wins than any other law firm last term.

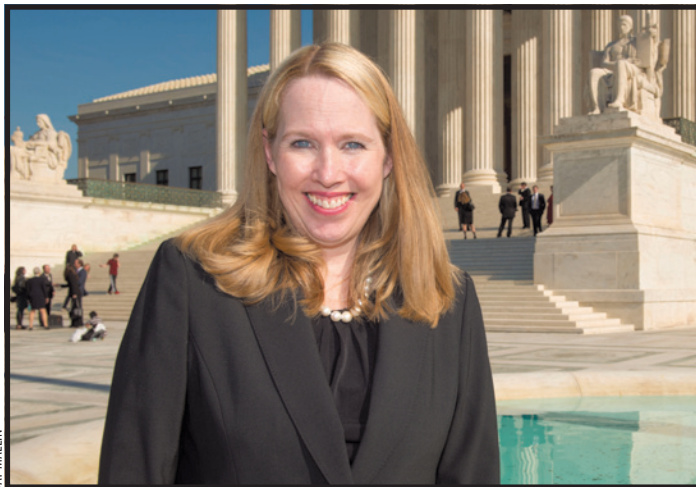
Wilmer won four and lost four, and Waxman lost three of the four. "I certainly lowered the win-loss rate of the firm," he said. "For a while, I was zero and 18." He was referring to 9-0 losses in *Jesinoski v. Countrywide Home Loans* and *Gelboim v. Bank of America Corp.* Waxman fared somewhat better in *Commil USA v. Cisco Systems*, losing 6-2. In *Arizona State Legislature v. Arizona Independent Redistricting Commission*, which Waxman argued pro bono, he won, 5-4.

In addition to Saunders and Fleming, the other Wilmer partners who argued last term were Danielle Spinelli and Craig Goldblatt.

## SPECIALIZED BAR

In February, Justice Elena Kagan applauded the growth of the specialized Supreme Court bar. "We all hope that it will continue," she said, asserting that "good lawyering helps for better decision-making."

But it wasn't the best of terms



**ALLYSON HO:** Morgan, Lewis & Bockius' appellate co-chair argued two cases. "It was both a sprint and a marathon," she said.

for some of the major Supreme Court specialty firms. Four—Gibson, Dunn & Crutcher; Kellogg, Huber, Hansen, Todd, Evans & Figel; Kirkland & Ellis; and O'Melveny & Myers—fielded two or fewer cases. Paul Clement of Bancroft argued three cases—fewer than usual. None was among the top headline cases.

The lesser role of some of the top firms may reflect where their cases stand in the pipeline leading to Supreme Court consideration. "A lot of this is the accident of when different cases come together," Goldstein said. But he also speculated: "We've pretty much maxed out the proportion of cases that will be done by Supreme Court specialists. Inevitably, a number are going to be done by the lawyers who had the cases below and by subject-matter specialists."

In last term's criminal cases in particular, lawyers who represented defendants from the beginning did not step aside to let veterans argue. They ignored another admonition Kagan made in

February: "The trial lawyers ought to hand over the case to the Supreme Court experts," she said. Sometimes the hometown lawyers "will be really good, but often they are not."

Gender diversity did not have a banner year at the court, either. Only one female lawyer from a private firm

argued more than one case this past term. Allyson Ho, co-chairwoman of the appellate practice at Morgan, Lewis & Bockius, argued and won *M&G Polymers v. Tackett*, a collective-bargaining case, in November. It was her debut argument before the court. A few weeks later, she argued a second time in an administrative law case, *Perez v. Mortgage Bankers Association*. That turned out to be a loss.

"It was both a sprint and a marathon," Ho said of her experience, but she enjoyed it. "As a University of Chicago Law School graduate, I have to be a big believer in free-market competition, right?" Ho said. "Iron sharpens iron, and to the extent competition results in the best advocacy to assist the court in resolving the most difficult issues, all the better."

Contact Tony Mauro at [tmauro@alm.com](mailto:tmauro@alm.com).