



2014

Supreme Court Institute Annual Report, 2013-2014

Georgetown University Law Center, Supreme Court Institute

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GEORGETOWN UNIVERSITY LAW CENTER • Office Memorandum

DATE: MAY 14, 2014
TO: GEORGETOWN LAW FACULTY AND STAFF
FROM: IRV GORNSTEIN, DORI BERNSTEIN
STEVEN GOLDBLATT
RE: SUPREME COURT INSTITUTE ANNUAL REPORT

Executive Summary:

During the 2013-2014 academic year – corresponding to the U.S. Supreme Court’s October Term (OT) 2013 – the Supreme Court Institute (SCI) provided moot courts for advocates in 96% of the cases heard by the Court this Term, offered a variety of programs related to the Supreme Court, and further integrated the moot court program into the education of Georgetown Law students. A list of all SCI moot courts held in OT 2013 – arranged by argument sitting and date of moot and including the name and affiliation of each advocate and the number of student observers – follows the narrative portion of this report. Here are some facts and figures about SCI moot courts this Term (comparable figures from the past three Terms, OT 2012, OT 2011, and OT 2010, appear in brackets):

OT 2013 SCI Moot Court Statistics

MOOTS:

Total Number of Moots: 67 moots
[OT 2012: 78 moots]
[OT 2011: 68 moots]
[OT 2010: 73 moots]
Number of Cases Mooted: 67 of 70 cases argued
[OT 2012: 75 of 75 cases argued (2 moots in 3 cases)]
[OT 2011: 65 of 69 cases argued]
[OT 2010: 73 of 78 cases argued]
% of Cases Mooted: 96% of cases argued (95.7)
[OT 2012: 100% of cases argued]
[OT 2011: 94% of cases argued (94.2)]
[OT 2010: 94% of cases argued (93.58)]

JUSTICES:

Number of Justice Seats Filled: 335
[OT 2012: 391]
[OT 2011: 342]
[OT 2010: 366]
Number of Unique Justices: 229
[OT 2012: 234]
[OT 2011: 201]
[OT 2010: 215]

Most Frequent GULC Justice: Brian Wolfman (10 moots)
Most Frequent External Justice: Steve Vladeck (4 moots)

OBSERVERS: 1485
[OT 2012: 1895]
[OT 2011: 1378]
[OT 2010: 1173]
Best Attended Moot Court: *Walden v. Fiore* – 208 Observers
[OT 2012: *Maryland v. King* – 370]
[OT 2011: *Zivotofsky v. Clinton* – 136]
[OT 2010: *Wal-Mart v. Dukes* – 107]

ADVOCATES:
Total Advocates Mooted: 54
[OT 2012: 63]
[OT 2011: 61]
[OT 2010: 68]

1st-Time S.Ct Advocates: 25 – 46% of all advocates mooted
[OT 2012: 33 - 52%]
[OT 2011: 29 – 47.5%]
[OT 2010: 32 – 47%]

Petitioners' Counsel: 43 Moots – 64%*
[OT 2012: 42 Moots – 54%]
[OT 2011: 37 Moots – 54%]
[OT 2010: 39 Moots – 53.5%]

Respondents' Counsel: 25 Moots – 39%*
[OT 2012: 32 Moots – 41%]
[OT 2011: 30 Moots – 44%]
[OT 2010: 34 Moots – 46.5%]

Court-Appointed Amicus: 0 Moots – 0%
[OT 2012: 4 Moots – 5%]
[OT 2011: 1 Moot – 1.5%]

* Combined percentages exceed 100% because we held a single moot court for Paul Clement, who argued on behalf of respondents in *Sebelius v. Hobby Lobby Stores*, No. 13-354, and on behalf of petitioners in *Conestoga Wood Specialties Corp. v. Sebelius*, No. 13-356, consolidated for argument; that moot is therefore counted both as a moot of petitioners' counsel and respondents' counsel.

Female Advocates:

5 mooted in 5 cases: 9% of advocates mooted were female

Erin Murphy: *McCutcheon v. FEC*
Angela Campbell: *Burrage v. United States*
Adina Rosenbaum: *Northwest Airlines v. Ginsberg*
Jennifer Grace Miller: *McCullen v. Coakley*
Judy Mizner: *United States v. Wurie*

[OT 2012: 12 mooted/11 cases: 19%: Lisa Blatt–2]
[OT 2011: 8 mooted/9 cases: 13%: Pattie Millett–2]
[OT 2010: 7 mooted/8 cases: 9%: Lisa Blatt–2]

Male Advocates:

49 mooted in 63 cases: 91% of advocates mooted were male
7 advocates mooted more than once:

Paul Clement–4: *Chadbourne/Willis/Proskauer v. Troice*
Bond v. U.S.
Sebelius v. Hobby Lobby/Conestoga Wood
ABC v. Aereo

Seth Waxman–4: *Medtronic v. Boston Scientific*
Hall v. Florida
Pom Wonderful v. Coca Cola
Limelight v. Akamai

John Bursch–3: *Burt v. Titlow*
Schuetz v. Coalition to Defend Aff. Action
Michigan v. Bay Mills Indian Community

Kevin Russell–3: *Daimler-Chrysler v. Bauman*
Air Wisconsin v. Hoepfer
Loughrin v. U.S.

Jeff Fisher–2: *Fernandez v. California*
Riley v. California

Neal Katyal–2: *Kansas v. Cheever*
Higbark v. Allcare Management Systems

Eric Schnapper–2: *Sandifer v. U.S. Steel Corp.*
Lawson v. FMR LLC

[OT 2012: 51 mooted in 67 cases: 81% - 8 advocates mooted more than once:
Jeff Fisher–4; Paul Clement–3; David Frederick–3;
Tom Goldstein–3; John Bursch–2; Greg Garre– 2;
Neal Katyal–2; Seth Waxman–2]

[OT 2011: 53 mooted in 59 cases: 87% - 3 advocates mooted more than once:
Paul Clement–5; John Neiman–2; Seth Waxman–2]

[OT 2010: 66 mooted in 65 cases: 91% - 1 moot of 2 counsel w/ divided arg.]

Former US SGs mooted:

4

Paul Clement, Greg Garre, Neal Katyal, and Seth Waxman

[OT 2012: 4 – Clement, Garre, Katyal, and Waxman]

[OT 2011: 3 – Clement, Dellinger, and Waxman]

[OT 2010: 2 – Clement and Waxman]

State/Municipal Reps:

4 States/1 City - 7 moots:

AR: Mike Mosley: *Plumbhoff v. Rickard* (city)
IL: Mike Scodro: *Madigan v. Levin*
MA: Jennifer Miller: *McCullen v. Coakley*
MI: John Bursch: *Burt v. Titlow*
Schnette v. Coalition to Defend
Michigan v. Bay Mills Indian Comm.
OH: Eric Murphy: *SBA List v. Driehaus*

[OT 2012: 6 States/2 Cities (10 moots): AR; FL; MD; MI; OH; TX; Arl., TX; L.A., CA]

[OT 2011: 7 States (8 moots): CA; AZ; AL (2x); MI; NH; IL; AR]

[OT 2010: 7 States (8 moots) – AL; CA; NY; OH; OR (2x); SC; WY]

Criminal Def/Habeas Pet: 15 counsel/16 cases

Angela Campbell (D&C): *Burrage v. U.S.*
Paul Clement (Bancroft): *Bond v. U.S.*
Richard Dietz (Kilpatrick): *Abramski v. U.S.*
John Elwood (Vinson): *Rosemond v. U.S.*
Jeff Fisher (Stanford): *Fernandez v. CA*
Riley v. CA
Jeff Green (Sidley): *Robers v. U.S.*
Neal Katyal (Hogan): *Kansas v. Cheever*
Paul Kleven (solo): *Navarette v. CA*
Larry Komp (solo): *White v. Woodall*
Judy Mizner (F.D.): *U.S. v. Wurie*
Charles Rothfeld (Mayer): *U.S. v. Castleman*
Kevin Russell (G&R): *Loughrin v. U.S.*
Stanley Schneider (S&M): *Paroline v. U.S.*
Howard Srebnick (BSKS): *Kaley v. U.S.*
Seth Waxman (Wilmer): *Hall v. FL*

[OT 2012: 18 counsel/19 cases]

[OT 2011: 7 counsel]

[OT 2010: 10 counsel]

Law Professors: 6 professors from 5 law schools mooted in 8 cases

Columbia: Ron Mann (*Fifth Third Bancorp v. Dudenhoeffer*)
Stanford: Jeff Fisher (*Fernandez; Riley*)
U. of PA: Jim Feldman (*Haluch Gravel v. Central Pension*)
Stephanos Bibas (Petrella v. M-G-M)
U. of VA: Doug Laycock (*Greece v. Galloway*)
U. of WA: Eric Schnapper (*Sandifer; Lawson*)

[OT 2012: 7 professors/6 schools/10 cases]

[OT 2011: 6 professors]

[OT 2010: 8 professors]

Non-Profit Orgs: 4 organizations/4 cases
ACLU: Steven Wilker (*Wood v. Moss*)
Pub. Citizen: Adina Rosenbaum (*Northwest v. Ginsberg*)
Pub. Justice: Matt Wessler (*Heimeshoff*)
Mt. States Legal Fnd'n: Steve Lechner (*Brandt Rev. Trust*)

[OT 2012: 4 organizations/6 cases]
[OT 2011: 4 organizations]
[OT 2010: 4 organizations]

Solo Practitioners: 2 Larry Komp, Manchester, MO (*White v. Woodall*)
Paul Kleven, Berkeley, CA (*Navarette v. CA*)

[OT 2012: 5]
[OT 2011: 1]
[OT 2010: 5]

Boutique Firms: 9 firms/12 attorneys/17 cases
(< 75 attys)

Allensworth & Porter/9 attys: W.Allensworth (*Atlantic Marine*)
Bancroft/14: P.Clement (*Troice, Bond, Hobby Lobby, Aereo*) (4)
E.Murphy (*McCutcheon v. FEC*)
Black, Srebnick, Kornspan & Stumpf/16: H.Srebnick (*Kaley*)
Davis Cowell & Bowe/19: R.McCracken (*Unite Here v. Mulhall*)
Dickey & Campbell/4: A.Campbell (*Burrage*)
Goldstein & Russell/4: T.Goldstein (*BG Group v. Argentina*)
K.Russell (*Daimler; Hoeper; Loughrin*) (3)
T.Singh (*Lane v. Franks*)
Klarquist Sparkman/50: J.Vandenberg (*Nautilus v. Biosig*)
Schneider & McKinney/3: S.Schneider (*Paroline v. US*)
Wiltshire & Grannis/31: T.Simeone (*Sprint Comm. v. Jacobs*)

[OT 2012: 14 firms/20 cases]
[OT 2011: 13 firms]
[OT 2010: 12 firms]

Large Firms: 22 firms/25 attorneys/29 cases

Bartlit Beck Herman Palenchar & Scott: J.Jones (*Lexmark*)
Boies Schiller: D.Boies (*Halliburton v. EPJ Fund*)
Cleary Gottlieb: J.Blackman (*Argentina v. NML Capital*)
Gibson Dunn: M.Perry (*Alice Corp. v. CLS Bank*)
Gunster Law Firm: E.Marod (*US v. Clarke*)
Harness, Dickey & Pierce: R.Telscher (*Octane Fitness v. Icon*)
Hogan Lovells: N.Katyal (*KS v. Cheever, Highmark*) (2)
Hunton & Williams: S.Regan (*Lozano v. Alvarez*)
Jenner: M.Hellman (*Law v. Siegel*)
P.Smith (*Harris v. Quinn*)
Jones Day: N.Franco (*NLRB v. Noel Canning*)
B.Murray (*CTS v. Waldburger*)
Kilpatrick Stockton: R.Dietz (*Abramski v. US*)
King & Spalding: J.Bucholtz (*Walden v. Fiore*)
Latham & Watkins: G.Garre (*US v. Woods*)

Mayer Brown: C.Rothfeld (*US v. Castleman*)
Pepper Hamilton: R.Hertzberg (*US v. Quality Stores*)
Ropes & Gray: D.Hallward-Driemeier (*Exec. Benefits v. Arkison*)
Sidley: J.Green (*Robers v. US*)
Tonkon Torp: S.Wilker (*Wood v. Moss*)
Vinson & Elkins: J.Elwood (*Rosemond v. US*)
White & Case: C.Curran (*MS v. AU Optronics*)
Williams & Connolly: K.Shanmugam (*Clark v. Rameker*)
WilmerHale: M.Fleming (*Mayorkas v. de Osorio*)
S.Waxman (*Medtronic; Hall; Pom; Akamai*) (4)

[OT 2012: 18 firms/22 cases]
[OT 2011: 19 firms]
[OT 2010: 15 firms]

SCI Moot Courts:

The SCI mooted advocates in 67 of the 70 cases the Court heard in OT 2013, once again mooted over 95% of the Court's argument docket. Two hundred twenty-eight (229) volunteer "Justices" filled 335 seats behind the bench – averaging out to the ideal 5-member panel for each moot court. Nearly half of the 54 advocates we mooted – 25 counsel, or 46% – were preparing for their first Supreme Court argument. Four former Solicitors General of the United States, Paul Clement, Greg Garre, Neal Katyal, and Seth Waxman, prepared for a total of eleven arguments in some of the most significant cases (and best-attended moot courts) of the Term. We mooted advocates from four non-profit organizations; 31 different law firms [12 advocates affiliated with 9 small or "boutique" firms (under 75 attorneys) argued 17 cases; and 25 advocates affiliated with 22 large firms argued 29 cases); and five law schools (six professors argued eight cases). We also mooted two solo practitioners; counsel representing a criminal defendant or habeas petitioner in 16 cases; and counsel representing states or municipalities (Arkansas, Illinois, Massachusetts, Michigan, and Ohio) in seven cases. Advocates representing petitioners (43, or 64% of moots) outnumbered those representing respondents (25, or 39% of moots) [combined total exceeds 100% because in a pair of consolidated cases, *Sebelius v. Hobby Lobby Stores*, No. 13-354, and *Conestoga Wood Specialties Corp. v. Sebelius*, No. 13-356, the same advocate represented petitioners in one and respondents in the other].

Some comments from appreciative moot court participants this Term:

Advocates:

"Thank you for all your help in *Kaley*. The moot was invaluable. During the oral argument before the SCOTUS, I did my best to apply all that I learned. . . . Thanks again to you and all those who served as justices."

- Howard Srebnick, Black Srebnick Kornspan & Stumpf, counsel for respondents in *Kaley v. U.S.*

"Thanks again for the assistance; the argument went very well. I'll keep chasing cert. grants as a private-practice lawyer in the hopes of working with you again!"

- John Bursch, Michigan Solicitor General, counsel for petitioner in *Michigan v. Bay Mills Indian Community*

“Thanks for setting up a great moot for me last Monday! It was very helpful as I prepared for the argument yesterday.”

- Adina Rosenbaum, Public Citizen, counsel for respondent in *Northwest Airlines v. Ginsberg*

“Thank you once again for all your help with the *Mayorkas v. Cuellar* argument. The moot was much harder than the actual argument, which is what you always want!”

- Mark Fleming, WilmerHale, counsel for respondents in *Mayorkas v. Cuellar de Osorio*

“The moot court was an extremely valuable tool in my preparation to argue before the Court. Thank you for all your help.”

- Robert Hertzberg, Pepper Hamilton, counsel for respondent in *U.S. v. Quality Stores*

“[Counsel] Steve Lechner and I join in thanking you for your outstanding and extremely generous contribution to the preparation of Mountain States Legal Foundation for its appearance at the Supreme Court of the United States in *Marvin M. Brandt Revocable Trust v. United States*. We are deeply in your debt for the time and effort you expended to prepare for and participate in the moot at Georgetown University Law Center. Thank you for your magnanimous involvement in that enterprise!”

- William Perry Pendley, President of Mountain States Legal Foundation, counsel for petitioners in *Marvin M. Brandt Revocable Trust v. U.S.*

“Thanks for putting together such a great moot court. The panel was terrific, the students had clearly done their homework, and I came away with a much better feel for the argument.”

Paul Kleven, solo practitioner, counsel for petitioners in *Navarette v. California*

“The Georgetown experience was incredibly well organized and extremely helpful. . . . It was an absolute privilege and delight to work with you and the Georgetown team. It helped immensely.”

- Rudy Telscher, Harness Dickey, counsel for petitioner in *Octane Fitness v. Icon Health & Fitness*

“Thanks so much for putting that moot court argument together. I enjoyed it immensely and it was very helpful to our case.”

- Eric Pinkard, Law Office of the Capital Collateral, co-counsel for petitioner in *Hall v. Florida*

“Thanks so much for putting this on. It was really a useful exercise for me.”

- Ronald Mann, Columbia Law School, counsel for respondents in *Fifth Third Bancorp v. Dudenhoeffer*

“Thanks so much for organizing and participating in today’s moot. It was a great experience—very helpful and a lot of fun.”

- Tejinder Singh, Goldstein & Russell, counsel for petitioner in *Lane v. Franks*

“Now that the *SBA List v. Driehaus* argument is safely behind me, I wanted to send a quick note of appreciation to you for helping me with the moot court at Georgetown. It was very helpful to my preparation, and I am grateful for your help. It is a wonderful program.”

- Eric Murphy, Ohio Solicitor General, counsel for respondents in *Susan B. Anthony List v. Driehaus*

“[T]hank you all for taking the time to assist us in preparing for our Supreme Court oral argument on behalf of our client, Mr. Kevin Loughrin. . . . [W]e are so grateful that you took the time out of your schedule to review our briefs so thoroughly and participate in such an immensely helpful moot

argument. ... [I]t was the first time our office has ever been involved in a US Supreme Court argument and the lessons we learned from you were invaluable. We were all amazed at how prepared you all were and how you were able to help us hone in on the most important issues and arguments in our case. I hope you got an opportunity to listen to the actual oral argument on April 1st. The Justices asked many of the exact same questions you posed during our moot. We all really believe that our final argument was so much better as a result of the input we received from you. ... Again, thank you for sharing your wisdom and experience with us.”

- Kathryn Nester, Federal Public Defender for the District of Utah, co-counsel for petitioner in *Loughrin v. U.S.*

Panelists:

“I enjoyed today’s session and was genuinely impressed by the panel (excluding myself ...)”

- Carter Phillips, Sidley Austin

“I was honored to participate and so impressed by the caliber of the questioning as well as [counsel’s] handling of her responses. Thanks again for including me; I enjoyed it a great deal.”

- Joel Gora, Brooklyn Law School

“Hearing [the advocate] argue was a total pleasure and inspiration. I’m even now tempted to go to the actual argument. Thanks as well for including my students. They absolutely loved it and particularly appreciated that [counsel] took the time to answer questions at the end.”

- Jennifer Daskal, American Univ. Washington College of Law

Serving as a Justice “was certainly my pleasure Thank you for your tireless efforts in support of this amazing program.”

- Simon Latcovich, Williams & Connolly

“So much fun -- I’m looking forward to the next one!”

- Peter Karanjia, Davis Wright Tremaine

“I should be thanking you! It was a LOT of fun--especially given how smart and into the case the other panelists were.”

- Sarah Harris, Arnold & Porter

“It was great fun. Thanks for the invitation! Happy to help whenever.”

- Richard Katskee, Mayer Brown

“Great case for a moot! Happy to help out again anytime.”

- Michael Gottlieb, Boies, Schiller & Flexner

“Congratulations to you, I thought [the moot] went really well. [Counsel is] impressive . . . and the rest of the panel was really active and thoughtful.”

- David Stewart, Georgetown Univ. Law Center

“It was a lot of fun! Thanks so much for including me in this one! Please keep me in mind for next year.”

- Lise Beske, American Univ. Washington College of Law

Attendance at SCI Moot Courts:

Attendance at SCI moot courts by students and guests remains robust. The number of observers at each SCI moot court combined totaled 1,485. We continued our collaboration with the Legal Research and Writing (LRW) faculty and other professors to ensure that every first-year J.D. student – including those enrolled in the evening division – had the opportunity to observe the argument preparation of a Supreme Court advocate. An SCI director (Faculty Director Prof. Steve Goldblatt or Director Dori Bernstein) provided case materials (briefs and opinions) with suggested reading assignments, and visited each LRW class before the class attended a moot court. During each LRW class visit, Prof. Goldblatt or Bernstein described our moot court program, discussed oral argument preparation, and reviewed the factual and legal background of the assigned case. At the conclusion of each moot court, students had an opportunity to ask questions of the mooted advocate. Over the course of the year, advocates responded to students' questions about their professional background or experience; methods of preparing for oral argument; the history of the particular case; their litigation strategy; the legal issues at stake; and Supreme Court advocacy generally. On occasion, trial counsel, a client, or a member of the Office of the Solicitor General observing the moot in preparation to argue for the United States as *amicus curiae*, joined in the post-moot exchanges with students.

The SCI also coordinated with various professors to include moot courts as part of their course curricula. Counsel often answered students' questions at the conclusion of these moots, time permitting. To accommodate the schedules of first-year students in our evening division, we held the moot court in *Susan B. Anthony List v. Driehaus* (standing to challenge to Ohio's criminal prohibition of false campaign speech under First Amendment), from 6:00-8:00 pm; two of their professors, Prof. Pam Harris (Constitutional Law I) and Prof. Jeffrey Shulman (Legal Research and Writing), served on the panel. Students enrolled in Prof. David Simmons' employment discrimination class attended the moot court in *Madigan v. Levin* (whether the federal Age Discrimination in Employment Act precludes a state employee from suing for age discrimination under section 1983). Prof. Greg Klass accompanied students in his Law of Deception seminar), as well as Prof. Paul Saunders' Securities Law students, to the moot in *Halliburton v. Erica P. John Fund* (viability and application of the fraud-on-the-market theory to certify securities fraud class actions). Students enrolled in Prof. Vic Nourse's Legislative Interpretation elective observed the moot court in *Robers v. United States* (calculation of restitution for lending fraud). Students in Prof. Anna Gelpert's Sovereign Debt Seminar and Prof. Dante Figueroa's course in Latin American Law attended *Argentina v. NML Capital* (scope of immunity under Foreign Sovereign Immunity Act from discovery of extraterritorial assets). Students learning about Food and Drug Law observed Prof. Lisa Heinzerling serve on the moot court panel in *Pom Wonderful v. The Coca Cola Co.* (Food Drug and Cosmetic Act preclusion of Lanham Act claim for misleading labeling). Prof. Angela Campbell accompanied students in her Institute for Public Representation clinic to the moot court in *ABC v. Aereo* (whether service to stream video through individual antennae is a "public performance" subject to copyright protection), which was also attended by students in the Music Law Seminar taught by Prof. Julie Ross, who served on the panel.

With counsel's consent, several moot courts were held in Hart Auditorium to meet student demand. First-year students observed their Civil Procedure professors transformed into Justices Sherman Cohn, Naomi Mezey, and Nina Pillard on the moot court panel in *Walden v. Fiore*, a personal jurisdiction case. Students enrolled in Criminal Justice with Profs. Cole, Gornstein, McLeod, and Seidman were invited to attend either or both of the moots in *Riley v. California* and

United States v. Wurie, in which the Court will decide the constitutionality of warrantless cell phone searches incident to arrest.

On occasion, students enrolled in other law schools were invited to observe SCI moot courts, by prior arrangement with their professors. Prof. Dave Sidhu accompanied five students from the University of New Mexico School of Law to the moot court in *Schuette v. Coalition to Defend Affirmative Action* (Equal Protection challenge to Michigan's constitutional prohibition against racial preferences in admission to public higher education); students enrolled in Harvard Law School observed their Profs. Kevin Russell and Jonathan Massey, serve on the moot court panel in *Paroline v. United States* (liability for restitution to child pornography victim); and Prof. Larry Rosenberg accompanied students enrolled in the Supreme Court clinic at the West Virginia University College of Law to the moot court in *Pom Wonderful*.

SCI moot courts were integral to the curricula of three seminars, and a new practicum, offered during the 2013-14 academic year. In the fall semester, students in the Supreme Court Workshop, taught by Profs. Gornstein and Kannon Shanmugam, attended the moot courts in *Daimler-Chrysler v. Bauman* (personal jurisdiction over foreign corporations for extra-territorial human rights violations against non-citizens); *Greece v. Galloway* (Establishment Clause challenge to town council's sectarian prayer practice); and *Rosemond v. United States* (aiding and abetting liability for using or carrying a firearm during a violent or drug trafficking offense). Prof. Sue Bloch's Supreme Court Seminar students attended the moots in *Schuette*, and *Bond v. United States* (Tenth Amendment challenge to federal prosecution of local crime under statute implementing the Chemical Weapons Ban Treaty). During the spring semester, students in Prof. Don Ayer's Supreme Court Litigation Seminar attended the moots in *Octane Fitness v. Icon Health & Fitness* (standard to award attorneys' fees under the Patent Act); *Sebelius v. Hobby Lobby* (employers' free exercise challenge to the Affordable Care Act's contraceptive coverage requirement); and *Riley*. In addition, each student in Prof. Steve Goldblatt's Appellate Litigation Clinic attended at least three SCI moots, of his or her choosing, during the year.

The SCI Judicial Clerkship practicum, taught by SCI Dir. Bernstein, offered eight J.D. students the opportunity to serve as "law clerks" to professors who volunteered to serve as "Justices" on an SCI moot panel. Each student/clerk was required to read the lower court opinions and all the briefs in his assigned case; lead a class discussion of the case; write a bench memo synthesizing the critical facts, pertinent legal framework, contentions of the parties and *amici curiae*, and pivotal Supreme Court authority; meet with his or her assigned professor/Justice to discuss the case in preparation for the moot court; observe the moot court and oral argument; and prepare a post-mortem analysis comparing the moot court to the oral argument. Ideally, the practicum is designed to enable students to develop some of the skills necessary to serve as a law clerk to an appellate judge; to enhance the moot preparation of panelists by providing bench memos and pre-moot discussions; and to assess how well the SCI prepares advocates by conducting a detailed comparison of a selection of moots to the arguments.

Finally, prospective, accepted, and newly enrolled Georgetown Law students were introduced to the SCI's moot court program via mock moot courts. Profs. Mike Gottesman, David Vladeck, and Irv Gornstein acted as "mock" moot court advocates to argue both sides of *Greece v. Galloway*, before panels of faculty Justices that included Dean Bill Treanor and Profs. Mike Seidman, Julie Ross, Marty Lederman, Irv Gornstein, and Dori Bernstein.

SCI Programming:

The SCI sponsored a variety of programs during the past year, including panel discussions previewing cases to be argued during OT 2013 for the Supreme Court press, students, and alumni; a book-signing and panel discussion of the historic Affordable Care Act (ACA) litigation; a mock moot court of *Sebelius v. Hobby Lobby* (religious objections to ACA's contraceptive coverage requirement); and our end-of-term reception honoring Justice Samuel A. Alito. We also hosted delegations of visiting judges from Argentina and Judicial Assistants from the UK. A fuller description of all SCI programs offered this year appears below:

1. September 16, 2013, 6:00-8:00 pm: ***Unprecedented: A Look Back at the Affordable Care Act Litigation.*** Panel discussion and book-signing of *Unprecedented: The Constitutional Challenge to Obamacare* (Public Affairs Books 2013) by Prof. Josh Blackman (South Texas College of Law); moderated by Adam Liptak (The New York Times), with panelists Profs. Randy Barnett and Josh Blackman, Michael Carvin (Jones Day), Erin Murphy (Bancroft), Alan Morrison (George Washington Univ. Law School), and Paul Smith (Jenner & Block). Hosted in partnership with the Georgetown Law Center for the Constitution.
2. September 19, 2013, 11:30 am – 1:00 pm: **OT 2012 Term Preview and Pizza Lunch.** Panel discussion of highlights in the upcoming Supreme Court Term, moderated by SCI Exec. Dir. Irv Gornstein; panelists were Profs Mike Gottesman, Pam Harris, and Marty Lederman. This event included pizza lunch and was designed to generate interest among students in attending SCI moot courts.
3. September 23, 2013, 8:30 – 11:00 am: **SCI Annual Term Preview Press Briefing.** Panel discussion of upcoming Supreme Court Term, moderated by SCI Executive Director Irv Gornstein; panelists were Paul Clement (Bancroft), Prof. Pam Harris, Prof. Marty Lederman, and Kannon Shanmugam (Williams & Connolly). Discussion included a question-and-answer session with members of the Supreme Court press corps. The SCI OT 2013 Supreme Court Preview, a report summarizing all merits cases pending before the start of OT 2013, was distributed.
4. September 25, 2013, 2:00-4:00 pm: **Visiting Delegation of Argentinian Judges.** SCI Dir. Dori Bernstein and Prof. Charles Abernathy met with a group of judges visiting from Argentina, who were briefed on the U.S. court system, and the SCI moot court program for Supreme Court advocates.
5. October 18, 2013, 4:30-6:00 pm: **Supreme Court Term Preview for Georgetown Law Alumni.** Panel discussion for GULC alumni of significant cases pending before the Supreme Court in OT 2012, featuring panelists SCI Directors Steve Goldblatt, Irv Gornstein, and Dori Bernstein.
6. October 22, 2013, 4:00-6:00 pm: **The Future of Human Rights Litigation After *Kiobel v. Royal Dutch Petroleum*.** Panel discussion moderated by Prof. Neal Katyal, with counsel for petitioners Esther Kiobel, et al., Paul Hoffman (Schonbrun, De Simone, Seplow, Harris, Hoffman, & Harrison), and counsel for respondent Royal Dutch Petroleum, Kathleen Sullivan (Quinn Emanuel Urquhart & Sullivan). Hosted in partnership with the Georgetown Law Human Rights Institute.

7. January 29, 2014, 4:00-6:00 pm: **Supreme Court Term Preview, Part 2.** Panel discussion of cases set for argument during the second half of the Supreme Court Term, OT 2013, moderated by Amy Howe (SCOTUSblog), with panelists Michael Carvin (Jones Day), Tom Goldstein (Goldstein & Russell), Erin Murphy (Bancroft), and Pratik Shah (Akin Gump). Hosted in partnership with Georgetown Law chapters of the ACLU and Federalist Society.
8. February 26, 2014, 4:00-6:00 pm: **Religious Objections to Contraceptive Coverage: *Sebelius v. Hobby Lobby*.** A mock moot court addressing an employer's challenge under the Religious Freedom Restoration Act to the contraceptive coverage requirement in the Affordable Care Act, featuring Elizabeth Wydra (Constitutional Accountability Center) as counsel for petitioner, and Hashim Mooppan (Jones Day) as counsel for respondents. Moot court "Justices" were: Prof. Irv Gornstein, Chief Justice; Prof. Dori Bernstein, Chris Landau (Kirkland & Ellis), Pratik Shah (Akin Gump), and Jeff Wall (Sullivan & Cromwell).
9. March 4, 2014, 9:00 am-5:15 pm: **Supreme Court Practice Seminar.** Full-day conference to instruct representatives of state and local governments on various aspects of Supreme Court practice. Panel topics included: *Petitions and Oppositions to Certiorari*, moderated by David Salmons (Bingham McCutchen), with panelists John Elwood (Vinson & Elkins), Greg Garre (Latham & Watkins), and Allyson Ho (Morgan Lewis); *Amicus Briefs*, moderated by Dan Schweitzer (National Association of Attorneys General), with panelists Shay Dvoretzky (Jones Day), Kira Klatchko (Best Best & Krieger), and Charles Rothfeld (Mayer Brown); *Oral Argument*, moderated by Bob Long (Covington & Burling), with panelists Prof. Irv Gornstein, Carter Phillips (Sidley Austin), and Pratik Shah (Akin Gump); *Merits Briefs*, moderated by Willy Jay (Goodwin Procter), with panelists David Frederick (Kellogg, Huber, Hansen, Todd, Evans & Figel), Tom Goldstein (Goldstein & Russell), and Paul Wolfson (WilmerHale); and a *Discussion About the Court*, moderated by Lisa Soronen (State and Local Legal Center), with Paul Clement (Bancroft), Lyle Denniston (SCOTUSblog), and Solicitor General Donald B. Verrilli, Jr. Co-sponsored with the State and Local Legal Center and the International Municipal Lawyers Association.
10. April 21, 22, & 25, 2014: **Visiting Delegation of UK Judicial Assistants.** SCI Dir. Dori Bernstein and Ruthanne Deutsch (Akin Gump) met on April 21 with a group of judicial assistants (equivalent to U.S. Supreme Court law clerks) to brief them on Supreme Court oral arguments they would observe on April 21 and 22; the judicial assistants returned on April 22 for a discussion of Supreme Court advocacy with Bernstein, Deutsch, SCI Faculty Dir. Steve Goldblatt, and Hon. Tom Ambro, U.S. Court of Appeals for the Third Circuit, and attended the SCI moot court in *Riley v. California* on April 25. Visit was coordinated by Cindy Dennis of the American Inns of Court.
11. May 7, 2014, noon-1:30 pm: **Lunch Discussion of Draft Law Review Article.** A small group of Supreme Court practitioners and Georgetown Law professors gathered to discuss a draft law review article with authors John Summers and Michael Cliff, presenting an econometric analysis of Supreme Court decisions.
12. May 19, 2014, 4:00-6:00 pm: **End-of-Term Reception Honoring Associate Justice Samuel A. Alito, Jr.** The SCI's annual celebration marks the completion of Supreme Court arguments for the current Term, thanks those who volunteered as moot court Justices and

participated in other SCI programs, and honors a person of significance to the Supreme Court bar. This year, we honored Justice Samuel A. Alito, Jr. Dean Bill Treanor opened the program with welcoming remarks, and Prof. Irv Gornstein spoke about highlights of the SCI's moot court program this Term and thanked those who made notable contributions during the year. Carter Phillips (Sidley Austin) spoke in tribute to Justice Alito, and former clerk Adam Ciongoli (Lincoln Financial Group) presented a gift to the Justice, a life-long fan of the Philadelphia Phillies: a personalized bobblehead, featuring the Justice in full Phillies regalia.

OT 2013 SCI Moot Courts

(Party highlighted in yellow; First-Time Supreme Court advocates noted in red)

October Sitting

Madigan v. Levin, 10/2/2013

Advocate: Michael Scodro, Solicitor General of Illinois, Chicago, IL

Student Observers: 14

Burt v. Titlow, 10/2/2013

Advocate: John Bursch, Solicitor General of Michigan, Lansing, MI

Student Observers: 15

Chadbourne & Parke/Willis of Colorado/Proskauer Rose v. Troice, 10/2/2013

Advocate: Paul Clement, Bancroft PLLC, Washington, DC

Student Observers: 9

McCutcheon v. FEC, 10/3/2013

Advocate: Erin Murphy, Bancroft PLLC, Washington, DC

Student Observers: 26

Atlantic Marine Construction Co. v. J-Crew Management, 10/4/2013

Advocate: William Allensworth, Allensworth & Porter, Austin, TX

Student Observers: 3

United States v. Woods, 10/4/2013

Advocate: Greg Garre, Latham & Watkins, Washington, DC

Student Observers: 7

Heimesboff v. Hartford Life & Accident Insurance Co., 10/9/2013

Advocate: Matt Wessler, Public Justice, Washington, DC

Student Observers: 1

Kaley v. United States, 10/9/2013

Advocate: Howard Srebnick, Black, Srebnick, Kornspan & Stumpf, Miami, FL

Student Observers: 6

Daimler-Chrysler v. Bauman, 10/11/2013
Advocate: Kevin Russell, Goldstein & Russell, Washington, DC
Student Observers: 8

Schuette v. Coalition to Defend Affirmative Action, 10/11/2013
Advocate: John Bursch, Solicitor General of Michigan, Lansing, MI
Student Observers: 31

Kansas v. Cheever, 10/11/2013
Advocate: Neal Katyal, Hogan Lovells, Washington, DC
Student Observers: 54

November Sitting

Sprint Communications v. Jacobs, 10/30/2013
Advocate: Tim Simeone, Wiltshire & Grannis, Washington, DC
Student Observers: 0

Bond v. United States, 10/30/2013
Advocate: Paul Clement, Bancroft PLLC, Washington, DC
Student Observers: 43

Walden v. Fiore, 10/30/2013
Advocate: Jeffrey Bucholtz, King & Spalding, Washington, DC
Student Observers: 208

Mississippi v. A.U. Optronics, 10/31/2013
Advocate: Christopher Curran, White & Case, Washington, DC
Student Observers: 0

Greece v. Galloway, 10/31/2013
Advocate: Doug Laycock, University of Virginia Law School, Charlottesville, VA
Student Observers: 50

Medtronic v. Boston Scientific Corp., 11/1/2013
Advocate: Seth Waxman, WilmerHale, Washington, DC
Student Observers: 7

Sandifer v. U.S. Steel Corp., 11/1/2013
Advocate: Eric Schnapper, University of Washington School of Law, Seattle, WA
Student Observers: 60

Burrage v. United States, 11/6/2013
Advocate: Angela Campbell, Dickey & Campbell Law Firm, Des Moines, Iowa
Student Observers: 58

Rosemond v. United States, 11/7/2013

Advocate: John Elwood, Vinson & Elkins, Washington, DC

Student Observers: 13

Lanson v. FMR LLC, 11/8/2013

Advocate: Eric Schnapper, University of Washington School of Law, Seattle, WA

Student Observers: 2

Fernandez v. California, 11/11/2013

Advocate: Jeffrey Fisher, Stanford University Law School, Stanford, CA

Student Observers: 9

Unite Here Local 335 v. Mulball, 11/11/2013

Advocate: Rich McCracken, Davis Cowell & Bowe, San Francisco, CA

Student Observers: 4

December Sitting:

Michigan v. Bay Mills Indian Community, 11/22/2013

Advocate: John Bursch, Solicitor General of Michigan, Lansing, MI

Student Observers: 1

BG Group v. Republic of Argentina, 11/22/2013

Advocate: Tom Goldstein, Goldstein & Russell, Washington, DC

Student Observers: 6

Northwest v. Ginsberg, 11/25/2013

Advocate: Adina Rosenbaum, Public Citizen, Washington, DC

Student Observers: 5

Lexmark Int'l v. Static Control Components, 11/25/2013

Advocate: Jameson Jones, Bartlit Beck Herman Palenchar & Scott, Denver, CO

Student Observers: 0

Lozano v. Alvarez, 12/4/2013

Advocate: Shawn Regan, Hunton & Williams, New York, NY

Student Observers: 1

Ray Haluch Gravel Co. v. Central Pension Fund, 12/5/2013

Advocate: Jim Feldman, University of Pennsylvania Law School, Philadelphia, PA

Student Observers: 0

White v. Woodall, 12/5/2013

Advocate: Larry Komp, solo, Manchester, MO

Student Observers: 52

Mayorkas v. Cuellar de Osorio, 12/6/2013
Advocate: Mark Fleming, WilmerHale, Boston, MA
Student Observers: 0

Air Wisconsin Airlines v. Hooper, 12/6/2013
Advocate: Kevin Russell, Goldstein & Russell, Washington, DC
Student Observers: 2

January Sitting:

NLRB v. Noel Canning, 1/6/2014
Advocate: Noel Francisco, Jones Day, Washington, DC
Student Observers: 0

Brandt Revocable Trust v. United States, 1/8/2014
Advocate: Steve Lechner, Mountain States Legal Foundation, Lakewood, CO
Student Observers: 0

United States v. Quality Stores, 1/8/2014
Advocate: Robert Hertzberg, Pepper Hamilton, Southfield, MI
Student Observers: 2

Lam v. Siegel, 1/9/2014
Advocate: Matt Hellman, Jenner & Block, Washington, DC
Student Observers: 1

McCullen v. Coakley, 1/10/2014
Advocate: Jennifer Grace Miller, Office of the Massachusetts Attorney General, Boston, MA
Student Observers: 9

Executive Benefits Insurance Agency v. Arkison, 1/10/2014
Advocate: Doug Hallward-Driemeier, Ropes & Gray, Washington, DC
Student Observers: 2

United States v. Castleman, 1/10/2014
Advocate: Charles Rothfeld, Mayer Brown, Washington, DC
Student Observers: 1

Petrella v. Metro-Goldwyn-Mayer, 1/15/2014
Advocate: Stephanos Bibas, Univ. of Pennsylvania Law School, Philadelphia, PA
Student Observers: 9

Harris v. Quinn, 1/16/2014
Advocate: Paul Smith, Jenner & Block, Washington, DC
Student Observers: 9

Abramski v. United States, 1/16/2014

Advocate: **Richard Dietz**, Kilpatrick Stockton, Wilston-Salem, NC

Student Observers: 1

Paroline v. United States, 1/17/2014

Advocate: **Stanley Schneider**, Schneider & McKinney, Houston, TX

Student Observers: 14

Navarette v. California, 1/17/2014

Advocate: **Paul Kleven**, Solo, Berkeley, CA

Student Observers: 58

February Sitting:

Octane Fitness v. Icon Health & Fitness, 2/20/2014

Advocate: **Rudy Telscher**, Harness, Dickey & Pierce, St. Louis, MO

Student Observers: 16

Robers v. United States, 2/21/2014

Advocate: Jeffrey Green, Sidley Austin, Washington, DC

Student Observers: 36

Highmark v. Allcare Management Systems, 2/21/2014

Advocate: Neal Katyal, Hogan Lovells, Washington, DC

Student Observers: 51

Hall v. Florida, 2/27/2014

Advocate: Seth Waxman, WilmerHale, Washington, DC

Student Observers: 49

Plumbhoff v. Rickard, 2/28/2014

Advocate: **Michael Mosley**, Arkansas Municipal League, North Little Rock, AR

Student Observers: 6

Halliburton v. Erica P. John Fund, 2/28/2014

Advocate: David Boies, Boies, Schiller & Flexner, Armonk, NY

Student Observers: 43

March Sitting:

Wood v. Moss, 3/19/2014

Advocate: **Steven Wilker**, Tonkon Torp, Portland, OR

Student Observers: 47

Clark v. Rameker, 3/20/2014

Advocate: Kannon Shanmugam, Williams & Connolly, Washington, DC

Student Observers: 7

Sebelius v. Hobby Lobby/Conestoga Wood Specialties v. Sebelius, 3/21/2014
Advocate: Paul Clement, Bancroft PLLC, Washington, DC
Student Observers: 33

Alice Corp. v. CLS Bank International, 3/27/2014
Advocate: Mark Perry, Gibson Dunn, Washington, DC
Student Observers: 6

*Fifth Third Bancorp v. Dudenboeffe*r, 3/28/2014
Advocate: Ronald Mann, Columbia Univ. Law School, New York, NY
Student Observers: 7

Loughrin v. United States, 3/28/2014
Advocate: Kevin Russell, Goldstein & Russell, Washington, DC
Student Observers: 23

April Sitting:

Republic of Argentina v. NML Capital, 4/16/2014
Advocate: Jonathan Blackman, Clearly Gottlieb, New York, NY
Student Observers: 24

Pom Wonderful v. The Coca Cola Co., 4/16/2014
Advocate: Seth Waxman, WilmerHale, Washington, DC
Student Observers: 37

United States v. Clarke, 4/17/2014
Advocate: Edward Marod, Gunster, West Palm Beach, FL
Student Observers: 0

CTS Corp. v. Waldburger, 4/17/2014
Advocate: Brian Murray, Jones Day, Chicago, IL
Student Observers: 4

American Broadcasting Companies v. Aereo, 4/17/2014
Advocate: Paul Clement, Bancroft, PLLC, Washington, DC
Student Observers: 25

Susan B. Anthony List v. Driehaus, 4/17/2014
Advocate: Eric Murphy, Solicitor General of Ohio, Columbus, OH
Student Observers: 42

Lane v. Franks, 4/23/2014
Advocate: Tejinder Singh, Goldstein & Russell, Washington, DC
Student Observers: 1

Nautilus v. Biosig Instruments, 4/23/2014

Advocate: John Vandenberg, Klarquist Sparkman, Portland, OR
Student Observers: 0

Riley v. California, 4/25/2014

Advocate: Jeffrey Fisher, Stanford Law School, Stanford, CA
Student Observers: 70

United States v. Wurie, 4/25/2014

Advocate: Judy Mizner, Federal Public Defender, Boston, MA
Student Observers: 108

Limelight Networks v. Akamai Technologies, 4/28/2014

Advocate: Seth Waxman, WilmerHale, Washington, DC
Student Observers: 2