

Appellate Lawyer of the Week: The female title-holder for most arguments

TONY MAURO

Dec. 6 will mark a unique milestone for Lisa Blatt. After arguing 28 cases before the Supreme Court in her prior job at the U.S. solicitor general's office, Blatt will appear for the first time in private practice on that day. And when she finishes, she will have argued more cases before the high court than any other woman now living.

Blatt is representing, on a pro bono basis, a Korean War veteran who missed a deadline for challenging a denial of benefits with the Court of Appeals for Veterans Claims. The case is *Henderson v. Shinseki*.

A partner at Arnold & Porter and head of its appellate and Supreme Court practice, Blatt will break a tie with Patricia Millett of Akin Gump Strauss Hauer & Feld, who also has 28 arguments under her belt. "I'm very happy for her," says Millett. "Lisa is an excellent attorney."

They worked together at the solicitor general's office, the incubator of most of the top Supreme Court advocates plying their trade today. It is also where the late Beatrice Rosenberg, the presumed female record-holder of all time, argued all 30 of her cases before the Court in the 1950s and 1960s. Blatt is scheduled to argue her 30th case in January.

In many ways, Blatt says, arguing at the Court in private practice will be similar to arguing for the government. She is preparing the same way, reading the record, reading transcripts, and subjecting herself to two moot courts.

The major difference, she says, is that now, "I am representing an individual," not a faceless agency. The contrast was driven home last month when her client, David Henderson, died. His widow Doretha was substituted as plaintiff. "It was a sad situation," Blatt says. "He was very sick."

Henderson had been a pro bono client of Arnold & Porter since 2006, after the veterans' court denied his claim for benefits because he missed a filing deadline by 15 days. He had asked the court to forgive his error because his service-related mental disability made



ARNOLD & PORTER LLP'S
LISA BLATT

him unable to file on time. The U.S. Court of Appeals for the Federal Circuit affirmed the dismissal, citing the 2007 Supreme Court ruling *Bowles v. Russell*. In that case, the Court viewed filing deadlines as jurisdictional — meaning that courts did not even have the jurisdiction to relax them through "equitable tolling." Blatt will argue that Congress, with its focus on helping veterans, did not intend to "shut the courthouse doors to veterans who, through no fault of their own, miss the 120-day time limit." Blatt has amassed several amicus briefs including one from the American Legion. The brief argues that veterans suffer from post-traumatic stress disorder "at an alarmingly high rate," making them less able to cope with tasks such as meeting firm deadlines.

Blatt, 45, is known for a no-nonsense argument style that brings results: She has won 27 of the 28 cases she has argued. The one she lost was *Bates v. Dow Agrosciences* and her adversary was David Frederick, a longtime friend. "Lisa is very precise and meticulous, and immerses herself in the details of a case," said Frederick, partner at Kellogg, Huber, Hansen, Todd, Evans & Figel. The two have known each other since 1986 when they were both 1Ls at the University of Texas School of Law. They both served on law review. "Lisa has always been a first-rate legal thinker," says Frederick.

Frederick is also author of the guidebook *Supreme Court and Appellate Advocacy*, which praises Blatt's performance and attention to detail in arguing a 2004 case, *United States v. Flores-Montano*. The Court was concerned about the intrusiveness of vehicle searches for contraband at the U.S.-Mexico border. Blatt was able to convince justices that even a search of a truck's gas tank could be done quickly and without damage, and she described how customs agents used long needles to see if seat cushions contained contraband, rather than tearing up the upholstery.

Blatt recalled that "I took apart a gas tank myself, with help," to prepare for the case. The Supreme Court clerk's guide for Court advocates also points to Blatt's argument as "an excellent example of a counsel who was intimately familiar with her client's business."

After 13 years at the solicitor general's office, Blatt left in May 2009. "I was ready for something different, and a new challenge," she says. Blatt took a few months off before deciding on her next step. Did she consider taking a different kind of job in the law? "No, not at all," she replies. "I love the Court. It's the institution; it makes you do your best, doesn't it? You have to give it your all."

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