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Report from the Dean 2012

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Focus on SCOTUS

INQUIRY
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A Message from Dean Harold J. Krent

No entity more profoundly influences the future course of the law than the Supreme Court of the United States. As a tribunal, the Court selects and decides some of the most critical cases of our time. As an institution, the Court plays a central role in fostering the public’s understanding of the importance of the rule of law. Our unique history of separation of powers hinges on a powerful, independent judiciary, spearheaded by the Supreme Court.

A number of law schools are known for studying the impact of the Court’s decisions. With our new Institute on the Supreme Court of the United States (ISCOTUS), we examine the Court as an institution, defined in significant part by its role in shaping public opinion. We are delighted that Justices Breyer, Scalia and Stevens have visited with us over the past 18 months and shared their views on the role of the Supreme Court within our government structure and its impact on public opinion.

The following pages report on ISCOTUS and its various initiatives as well as the many ways in which our faculty, students and alumni engage in cases before the Court. As a legal educator, I am especially pleased with student involvement in the Oyez Project, our vast multimedia platform that digitizes audio recordings of Supreme Court arguments from 1955 forward. Oyez is an integral component of our new institute and a wonderful way to involve students in contemporary issues before the Court. For instance, our Oyez students write abstracts and collect critical details for newly docketed cases, and they follow up with additional details upon the announcement of opinions. And soon they will be traveling to Washington, D.C., where they will have the unique opportunity to meet and talk with Chief Justice Roberts.

Our enterprising faculty, a number of whom have clerked for or argued before the Court, remain actively involved in preparing briefs and hosting moot courts for Supreme Court litigants, particularly for our alumni litigants. Our alumni in turn serve on our board of advisors and participate in institute events.

As always, I’d like to salute our entire community—students, faculty, alumni, university colleagues and friends—for their commitment to IIT Chicago-Kent and to its programs. As ISCOTUS moves forward, we look with gratitude to the invaluable support our community has lent this effort. I hope you enjoy this report, and I look forward to your comments and suggestions.

Laura Pavlik ’11 (left) and Elizabeth Thompson ’10 were part of a team of students who assisted Dean Harold Krent in writing an amicus brief in support of the respondents in Alvarez v. Smith.

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Supremely Focused
New institute zeroes in on SCOTUS through research, education and public outreach

For IIT Chicago-Kent, it’s an inspired academic pairing: Professor Carolyn Shapiro, a Supreme Court scholar and former clerk to Justice Stephen Breyer, and Professor Jerry Goldman, founder and director of the Oyez Project, a vast multimedia initiative devoted to the Supreme Court and its work.

Together, they are the driving force behind Chicago-Kent’s Institute on the Supreme Court of the United States (ISCOTUS), a new enterprise that leverages the law school’s core strengths of cutting-edge legal scholarship and technological innovation.

ISCOTUS, which Professor Shapiro directs, was a natural fit for her. Since joining Chicago-Kent’s faculty in 2003, her scholarship has focused on the Supreme Court, and she has served as counsel in several cases before the Court.

ISCOTUS was also a natural home for Professor Jerry Goldman and his Oyez Project, which, until 2010, was located at Northwestern University, where Professor Goldman spent 36 years teaching political science.

With its emphasis on technology, Oyez is one of three components within the institute, the other two being an academic center and a civic education project.

“I don’t think there’s anything quite like ISCOTUS elsewhere,” says Professor Shapiro. “There are other Supreme Court and constitutional law institutes, and other entities devoted to public education, but I’m not aware of anything else that combines all of these different elements—the technology and the academic chops with the effort to do public education.”

In just over a year, ISCOTUS is making its mark at Chicago-Kent, in academia, and in the public affairs arena at large. At the institute’s opening last fall, Professor Shapiro’s old boss Justice Stephen Breyer delivered a thought-provoking, 40-minute
Focus on Carolyn Shapiro

Carolyn Shapiro, associate professor of law at IIT Chicago-Kent and director of the school’s Institute on the Supreme Court of the United States (ISCOTUS), earned a B.A. with honors in English from the University of Chicago and worked in social services and public policy for several years before she went to law school. “At the time, I wanted the tools law school would give me, but I wasn’t planning to become a law professor.” (She also pursued an M.A. from the U. of C.’s Harris Graduate School of Public Policy at the same time.)

It turned out she loved law school—and was good at it. She landed a clerkship with the colorful then–Chief Judge Richard Posner of the U.S. Court of Appeals for the Seventh Circuit. Before she even started, Professor Shapiro landed another with Supreme Court Justice Stephen Breyer.

She describes her year at the Supreme Court (1996–97) as “tremendously exciting, the most exciting job I can imagine, certainly as a young lawyer. It’s thrilling.”

High pressure, too. Clerks play a critical role in winnowing the 7,000–9,000 requests the court receives each year and assisting the justices in choosing the 80 or so cases (it was 90–95 when Professor Shapiro was there) that they hear in a year. Then each justice’s law clerks assist him or her in preparing for oral argument and in the opinion-writing process after the case has been decided.

“Your job is to make sure he hasn’t missed anything,” Professor Shapiro says. “It’s all kinds of things, from the minor to the very significant in terms of helping the justice make his opinion the best it can be.”

After her year at the Supreme Court, Professor Shapiro was a Skadden Fellow with the Sargent Shriver National Center on Poverty Law and worked as an associate with Miner, Barnhill and Galland, mostly handling plaintiff-side civil rights cases.

In 2003, she joined the faculty of Chicago-Kent, where she teaches Legislation, Employment Relationships, and Public Interest Law and Policy. Her scholarship focuses on the Supreme Court, including its relationship with lower courts and other political institutions and actors.
Focus on Jerry Goldman

Professor Jerry Goldman's interest in the Supreme Court began 45 years ago, when he took a class with Samuel Konefsky, a political science professor at Brooklyn College and author of *The Legacy of Holmes and Brandeis*. Professor Goldman became his last research assistant.

“He had this fabulous memory,” recalls Professor Goldman, who heads the Oyez Project, a central component of IIT Chicago-Kent’s Institute on the Supreme Court of the United States (ISCOTUS). “If I checked a citation for him, he’d tell me the exact page and where on the page he thought I might find it. He was really impressive, and I thought, ‘Maybe there’s a career here for me, too.’”

After completing his Ph.D. at Johns Hopkins, Professor Goldman worked for the Federal Judicial Center, the research and training arm of the federal courts. Then he joined the political science faculty at Northwestern University, where he taught for the next 36 years.

The birth of the Oyez Project occurred, like many inspired ideas, in the bleachers at Wrigley Field, when he realized that “baseball could really be a metaphor for the Supreme Court.” Nine players, nine justices, umpires calling balls and strikes (as Chief Justice John Roberts later famously said). This was in the early 1980s, pre-Internet. Professor Goldman started playing around with ideas, using the technology of the time. As computer technology advanced, he increasingly involved his students in configuring what would become the Oyez Project, a vast multimedia archive devoted to the Supreme Court and its work.

“Students have done the great majority of the work building the Oyez Project—everything from creating abstracts of the cases to writing the biographical sketches.”

After bringing the project to Chicago-Kent in 2010, Professor Goldman continues to ride the wave of information technology.

“Sometimes I thought I would be caught in the undertow,” he says. “I’m pretty good on my board right now.”

ISCOTUS, continued

ISCOTUS is a resource for those outside Chicago-Kent as well. Professor Shapiro has been featured or quoted by a wide variety of news media, including ABC News, the Chicago Tribune, Above the Law and Chicago Tonight, on issues ranging from the resignation of Justice Stevens and the nomination of Justice Kagan, to the Affordable Care Act cases and the cert. pool. In July, Professor Shapiro was named “Appellate Lawyer of the Week” by the National Law Journal due to her work with ISCOTUS.

Meanwhile, the institute’s Oyez site (“oyez” is French for “Hear ye!,” which is called out three times by the marshal at the beginning of each Supreme Court session) received more than 7 million visits last year. Under Professor Goldman’s guidance, the site has developed over the last three decades into the country’s most complete searchable source for audio recorded in the Court since the installation of a recording system in 1955.

A phenomenal resource for students, educators, researchers and lawyers, the site also provides plain-English abstracts for thousands of Supreme Court cases, brief biographies and voting records of Supreme Court justices, links to written opinions, voting data and map locations, and a virtual tour of the Supreme Court building.

The project’s app, OyezToday (which will relaunch in January as ISCOTUSnow), allows users to access oral arguments, transcripts and opinions, shortly after their release, on iPhones, iPads and Android phones. Users can search for and even create and share clips of key segments, or share their impressions on Facebook or Twitter—or visit the blog currently located at www.oyeztoday.org.

The popular app was high on Professor Goldman’s “to do” list when the Oyez Project moved across town in 2010, making its new home at Chicago-Kent.

“Heal Krent made me an offer I couldn’t refuse,” Professor Goldman says, “and I’ve been reborn. Chicago-Kent gave me a wonderful opportunity to supercharge the Oyez Project. Hal Krent and Carolyn Shapiro recognized the value of the project as a resource for the law school, and that really sold me. I didn’t have to start from ground zero here.”
Professors Shapiro and Goldman collaborate often, particularly on Oyez.org (www.oyez.org) and OyezToday, which feature everything from brief video overviews of specific Supreme Court cases to what Professor Goldman describes as “a deep dive.”

Ahead of the Affordable Care Act arguments in March, for instance, the professors produced a series of web-based videos featuring Chicago-Kent faculty members. These videos were posted along with a wealth of other digital material about the cases, including briefing, oral arguments, and opinions from the lower courts. And, as Professor Goldman points out, the Oyez Project posted audio of each day’s arguments immediately—in fact 10 minutes before the Supreme Court did (he won’t divulge how). During the health care arguments, Oyez tallied 50,000 hits per day.

Increasingly, the website has become the go-to site for Supreme Court research by scholars, students and practitioners. If scholars visit the National Archives, Professor Goldman says, they’ll likely be referred to the Oyez Project. Students can access information from anywhere, and practitioners sometimes download oral argument audio as they prepare for argument in related cases.

“My arrangement with the National Archives is that anything I digitize, I give back to them,” says Professor Goldman. “So they have everything I have in digital form. But they don’t have what we have, which consists of the audio in useful pieces like arguments and opinion announcements rather than three or four hours of an audio stream.

“Moreover, we have gone to great lengths to add metadata describing the audio in detail, with speaker-identified transcripts of that audio linked to the millisecond. What we hold is unique because it enables our users to search the audio, in effect, for exact passages by identifying those elements in the transcript.”

Professor Goldman and Oyez technical lead Matt Gruhn are working with several Chicago-Kent students (and a couple from Northwestern) to finish a major archiving project, involving 10,000 hours of audio (of highly variable quality) with 95-percent-accurate transcripts comprising more than 110 million words plus voice identification. Professor Goldman hopes to finish by the end of this year, which he describes as “the light at the end of a very long tunnel.”

Professors Shapiro and Goldman have also spoken at several conferences for high school teachers sponsored by the Constitutional Rights Foundation Chicago, whose executive director, Nisan Chavkin, serves on ISCOTUS’s advisory board. And they hope to do more “deep dives” in the future, focusing on both current and historical cases, using audio, video, social media and the Internet to create accessible, user-friendly packages. In fact, they began planning such a “deep dive” for the same-sex marriage cases immediately after the Supreme Court announced that it would hear them. Professor Shapiro envisions podcasts and ongoing relationships with media outlets. Professor Goldman imagines a geo-location app that alerts your phone when you pass a spot that played some role in a Supreme Court case.

“We have no shortage of ideas,” says Professor Shapiro, whose goal is for ISCOTUS to reach a wider swath of the general public. “There’s room out there for a more nuanced discussion of the Supreme Court than we usually get in the media.”

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Institute on the Supreme Court of the United States (ISCOTUS) Advisory Board

AS OF DECEMBER 2012

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Executive Director, Constitutional Rights Foundation Chicago

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Founding Shareholder, Robinson Curley & Clayton PC

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Assistant Professor of Law, IIT Chicago-Kent College of Law

George Zelcs ’79
Member, Korein Tillery
Visits from Three Inspiring Guests

Justices Breyer, Scalia and Stevens leave warm and lasting impressions

IIT Chicago-Kent has been privileged to welcome three current and former U.S. Supreme Court justices since opening the Institute on the Supreme Court of the United States (ISCOTUS) in September 2011.

Justice Stephen G. Breyer
“Making Our Democracy Work—A Judge’s View”
September 12, 2011

Justice Antonin Scalia
Keynote Address,
“Judicial Takings: Property Rights and the Rule of Law”
October 18, 2011

Justice John Paul Stevens
“The Ninth Vote in the Stop the Beach Case”
October 3, 2012
Justice Scalia delivered the keynote address at a conference on judicial takings hosted by IIT Chicago-Kent and the Jack Miller Center. Justice Scalia also met with students to discuss issues facing the federal judiciary (far left) and presided with Illinois Supreme Court Justice Anne M. Burke ’83 at a student moot court (near left). For more photos, visit www.kentlaw.iit.edu/justice-scalia.

Justice Breyer (far left) took part in the inaugural program of the law school’s Institute on the Supreme Court of the United States (ISCOTUS), addressing students, faculty and alumni on the themes set forth in his recent book and answering questions from the audience. Near left: Justice Breyer greets student Joshua Seiter ’13. For video and more photos, visit www.kentlaw.iit.edu/justice-breyer.

Justice Stevens lunched and chatted with students, alumni and faculty, including Chicago-Kent Professor and Illinois Solicitor General Michael Scodro (far left), before addressing a packed auditorium on the topic of the Stop the Beach case and taking questions from the audience (near left). Following his talk, Professor Nancy Marder announced the Jury Center would be renamed in Justice Stevens’ honor. For video and more photos, visit www.kentlaw.iit.edu /justice-stevens.
Faculty Advocates and Former Clerks

IIT Chicago-Kent’s Institute on the Supreme Court of the United States (ISCOTUS) draws on a wealth of experience among faculty members who have clerked for Supreme Court justices, argued cases before the Supreme Court, or both. We asked them about their experiences:

Professor and Illinois Solicitor General Michael Scodro


**ON CLERKING**

**Memories of Justice O’Connor:**
I was consistently impressed by her ability to focus swiftly on the narrow legal question at the very heart of each case. Though parties would often provide layer upon layer of complex argument, Justice O’Connor could cut instantly to the issue on which the Court’s decision would later turn.

**ON LITIGATING**

**Issue before the Court:**
The Court was asked to identify the proper remedy in cases where the defendant in a state criminal trial is erroneously deprived of one of his peremptory challenges during jury selection—specifically, whether the defendant in such a case is automatically entitled to a new trial, or whether ‘harmless error’ analysis applies. The Supreme Court agreed with the State of Illinois and held that harmless error analysis applied. Accordingly, the Court upheld the defendant’s conviction.

**Lasting impressions:**
In arguing before the Supreme Court, one is immediately struck by the extraordinary degree of preparation and thought that each justice has devoted to the case prior to argument. The questioning is fast paced and keenly focused on the most challenging and legally uncertain aspects of the case.
Professor Carolyn Shapiro
Carolyn Shapiro, director of the law school’s Institute on the Supreme Court of the United States (ISCOTUS), clerked for Justice Stephen Breyer from July 1996 to July 1997.

Most memorable case from the 1996 Term:
The right-to-die case, Washington v. Glucksberg, 521 U.S. 702 (1997), was fascinating on so many levels. The Ninth Circuit had held that there was a constitutional right to assisted suicide for terminally ill patients. The Supreme Court disagreed. One of the most fascinating things about the case was the vast range of amicus briefs—from every type of organization you can imagine and across the political spectrum. It was evident that this was an issue that affected people of all walks of life.

Dean Harold Krent

Lasting impressions:
Given that counsel have lived and breathed their cases for years, they generally know far more about precedents and analogies than judges. It would be surprising, after all, if judges who have only skimmed the briefs or glanced at their clerks’ memos would think of something new. Not so with U.S. Supreme Court justices—I long have been struck by their incredible preparation, probing queries, and keenly analytic thinking, and their assertive questioning at oral argument did not disappoint!
Professor Nancy S. Marder

Lesson learned:
One lesson I learned was the importance of taking a long-term perspective. There were a number of cases during my clerkship when Justice Stevens was in dissent or even the lone dissenter. Yet, he remained optimistic. He took a long-term perspective, and he was wise to do so. Eventually, a number of his dissents became the basis for majority opinions years later.

Distinguished Professor Sheldon Nahmod
Sheldon Nahmod argued Chardon v. Fumero Soto, 462 U.S. 650 (1983), before the U.S. Supreme Court.

Issue before the Court:
I represented the winning plaintiffs, more than 100 teachers in Puerto Rico who alleged they were fired because of their political affiliation. When a federal civil rights class action, filed in Puerto Rico federal court, is decertified, does the applicable statute of limitations for individual civil rights actions begin to run anew as provided by Puerto Rican civil law, or has it just been suspended as provided by the common law? The Supreme Court held (6–3), per my federalism argument, for the plaintiffs—that Puerto Rican law applies.

First impressions:
How close the justices are to you as you argue and how several were involved in my argument while others seemed not to be.

Indelible memories:
The amount of intense preparation required and the high visibility of the experience.

Advice to first-timers:
Prepare and anticipate; moot if possible; think before you answer.
Faculty Moot Courts

A primary mission of ISCOTUS is to serve as an intellectual clearinghouse for Supreme Court–related matters. Fittingly, IIT Chicago-Kent’s faculty has become an important sounding board for attorneys preparing to argue before the Court. Below, a selection of recent moot courts hosted by our faculty:

**Hosted for:** Anita Alvarez ’86, Cook County State’s Attorney  
**At issue:** Confrontation clause

**Hosted for:** Beau Brindley, Partner, the Law Offices of Beau B. Brindley, and colleague of Joshua Jones ’08, who wrote the cert. petition  
**At issue:** Right to a fair jury trial

**Hosted for:** Harold Krent, Dean, IIT Chicago-Kent College of Law  
**At issue:** Sovereign immunity

**Hosted for:** Ralph Meczyk ’77, Ralph E. Meczyk & Associates  
**At issue:** Search and seizure

**Hosted for:** Michael Scodro, Assistant Professor, IIT Chicago-Kent College of Law, and Illinois Solicitor General  
**At issue:** Right to a fair jury trial

**Hosted for:** Sean E. Summers, Partner, Barley Snyder LLC  
**At issue:** First Amendment protections and tort liability
Chicago-Kent faculty regularly file briefs in the Supreme Court. And when they do, students and recent grads often provide invaluable research and writing assistance. Below, a selection of briefs and case work from the past 10 years. Work involving students appears in blue text.

**Lori B. Andrews**

**Harold J. Krent**


**William A. Birdthistle**

Michael A. Scodro
(in his capacity as Solicitor General of Illinois)

Carolyn Shapiro
CBOCS West, Inc. v. Humphries, 553 U.S. 442 (2008), representing Respondent (with C. Hyndman et al.)

Joan E. Steinman

Joan E. Steinman and Margaret G. Stewart

Richard W. Wright
FOCUS ON FOUR ALUMNI ADVOCATES

James B. Koch ’79
Partner, Gardiner Koch Weisberg & Wrona, Chicago, Ill.


Getting involved

a) Duckworth v. Serrano—I was working at a law firm writing memos and reviewing documents. I decided to volunteer to handle an appeal pro bono before the Seventh Circuit, pursuant to the Criminal Justice Act, and was assigned the Serrano case.

Mr. Serrano had been convicted of murder. I raised an issue for the first time on appeal in the Seventh Circuit, to wit: Mr. Serrano’s attorney represented a witness against him in an unrelated case. I argued for a reversal under “the interest of justice” standard which had been used in administrative cases. The Seventh Circuit agreed and reversed the conviction. Certiorari to the U.S. Supreme Court was granted, and I drafted the brief before the Supreme Court. The Supreme Court in a per curiam decision said that this result created an exception to the habeas requirements and reversed the Seventh Circuit 8–1 a couple of months before argument.

b) FSLIC v. Ticktin—An attorney who was a defendant in a breach-of-fiduciary-duty case asked a number of lawyers to meet to discuss how to frame the argument that would most likely prevail on appeal (strict construction of a statute, policy issues). Ticktin preferred my analysis, and so I wrote the brief and later argued the case before the U.S. Supreme Court.

c) Illinois v. Wardlow—I previously represented Mr. Wardlow’s brother on a matter, and Mr. Wardlow’s daughter played on an inner-city basketball team that I coached. Mr. Wardlow had been convicted in state court of unlawful use of a weapon by a felon after he was caught running from police. After he lost his case at the trial level, I was approached to see if he could appeal his case. We appealed on the grounds that an unprovoked flight from police officers wasn’t sufficient cause for a search and that Mr. Wardlow’s Fourth Amendment rights had been violated.

Preparing for court

First, I read all of the briefs, lower court cases, and relevant law review articles. Second, and most importantly, I contacted former IIT Chicago-Kent students who practiced in the area, and they all agreed to help me by preparing moot court arguments. Numerous drafts of the briefs were reviewed and edited. I practiced moot court arguments at six or seven local law firms. I also practiced arguments at Georgetown Law Center, where former U.S. Supreme Court law clerks and students had the opportunity to ask questions and suggest answers and responses.

Lasting impressions

As a “law nerd,” what impressed me most about appearing before the U.S. Supreme Court was the overwhelming sense of dignity, integrity and fairness. The fact that a man who ran from the police in a rundown area of the city could have his case heard on the merits from the trial court to the U.S. Supreme Court inspires an overwhelming sense of pride in the rule of law.

Walking in and through the Court building, seeing the busts and the writing, left an indelible impression on me—that law protects individual rights, that we honor the law and not kings, rulers, politicians or the wealthy. I was reminded that the law protects individual rights and that the president, Congress and the justices themselves pledge to uphold the Constitution.

Finally, I have family and friends who work abroad in very difficult situations, risking their lives so that we can enjoy our liberties. So, appearing before the U.S. Supreme Court impresses upon me that disputes can be resolved by the rule of law.

Expecting the unexpected

First, when the argument in Ticktin was over, I asked my then 8-year-old son what he thought. He said, “I think I want a hamburger.” That comment has always reminded me not to take myself too seriously.
Second, before I argued Wardlow, I spoke with a number of attorneys who had previously argued cases before the U.S. Supreme Court to gain whatever insights they could offer. I was continually and pleasantly surprised by how generous the legal bar is to their fellow colleagues. I was referred to an attorney in Washington, D.C., John Roberts, who had argued a number of cases. Mr. Roberts read the brief and offered a number of helpful suggestions in preparing for the argument. Today, of course, he is the Chief Justice of the United States.

**Advice for first-time advocates**

I would advise an attorney that legal work is collaborative, and it is essential to assemble a team to assist in writing, editing and arguing the case. Your colleagues and professors at Chicago-Kent will be your best resources. Keep in mind that the purpose of a brief and oral argument should be to guide the Court to do its job.

Since the justices always come prepared with their own questions, the first few minutes are your opportunity to focus the court on your preferred issue. I think that if you can get the Court to appreciate one valuable insight, it will give you additional time to develop that idea based on the Court’s questions.

I also believe it is important to concede the limitations of the facts and laws in order to be credible. Obviously, you should master the body of relevant law so that you are the most informed expert on that area of law at the time of your argument.

Finally, there is no harm in over-preparing. Participating in practice moot court arguments and receiving pointed criticisms about the weaknesses in your case will give you insight as to how to respond to questions.
FOCUS ON FOUR ALUMNI ADVOCATES

Ralph E. Meczyk ’77
Ralph E. Meczyk & Associates, Chicago, Ill.

Getting involved
I originally became involved in the Caballes case as one of his trial lawyers when Mr. Caballes was arrested for cannabis trafficking. One of the issues was the legality of the traffic stop. What was an ordinary traffic stop evolved into an unrelated investigation concerning narcotics without Terry-type reasonable suspicion or probable cause. The state troopers detained Mr. Caballes without the required reasonable suspicion and, during the course of the stop, peppered him with questions that were unrelated to the original traffic stop. Moreover, we asserted that the use of a drug dog is a search under the Fourth Amendment.

I litigated a motion to suppress evidence based on the legality of the stop and the stop turning into an unrelated narcotics investigation without probable cause. We did not prevail. We entered into an agreed/stipulated bench trial in order to preserve the appellate issues for the Third District Appellate Court, and again we came in second. As Winston Churchill once tersely said, “Never give up, never give up, never give up.”

Preparing for court
In order to prepare for arguments, I did more research than I had ever done in any case. I read every relevant Supreme Court decision concerning these issues and read every amicus brief filed in the case as well as the seminal work on Supreme Court practice, Frederick’s Supreme Court and Appellate Advocacy.

I practically suspended my practice and solely handled this matter. I contacted many scholars in the field who graciously helped me with my argument.

The first person I contacted was Dean Harold Krent at IIT Chicago-Kent. He, along with an extraordinarily gifted group of students, helped me to sharpen the issues and prepare for the oral arguments. Dean Krent and his students helped me prepare and refine my brief and on many occasions helped me practice my most powerful and persuasive arguments. Dean Krent, who is a Supreme Court advocate himself, turned out to be an invaluable asset to my preparation. Moreover, the dean put me through my paces with faculty members at a grueling moot court session. During that session, the dean and the other moot court “justices” challenged me with very incisive questions. They were very prescient in predicting the questions that the Supreme Court justices did ask.

Similarly, I also participated in a mock moot court session at Georgetown Law Center, where they have a three-quarter-sized exact replica of the Supreme Court, right down to the pattern in the carpeting. That mock appellate argument turned out to be grueling as well, but not as tough as the moot argument at Chicago-Kent.

Again, caving in to my inordinate insecurity that I was not doing enough, I contacted many leading scholars in criminal procedure, including Harvard Professor Laurence Tribe and former Solicitor General Seth Waxman, the latter of whom took a keen interest in the case and gave me the benefit of his experience and knowledge. Lastly, I went to the University of Illinois and met with Professor Wayne LaFave, who is, of course, the leading authority on the Fourth Amendment. He, too, was an invaluable resource to me, and I shall never forget his tireless efforts.

Lasting impressions
I expected a “hot bench,” and I got it. I was actually surprised that I handled so many questions without becoming overwhelmed. What really surprised me was Justice Scalia, who threw me nothing but softball questions, which made me believe the libertarian streak in him was coming out and that he was partisan to me—it
Anita Alvarez ’86
Cook County State’s Attorney, Chicago, Ill.

turned out he wasn’t. On the other hand, the justice who gave me the most difficult time was Justice Sandra Day O’Connor. After all, I was asking her to reverse her decision in *Indianapolis v. Edmond*, where she wrote the majority opinion.

**Expecting the unexpected**
One of the things that really astounded me about arguing in front of the Supreme Court was how intimate the actual courtroom is, and you are only about ten feet from the justices. It seemed like I was having a private conversation with them. That was an experience I will never forget.

**Advice for first-time advocates**
As with any contested hearing or trial, I always remind myself that my adversary is working 10 times harder than I am. That is why it is important to know every nook and cranny of the record. Even things you may think are irrelevant or immaterial may be picked up by any one of the justices.

Many years ago, when I was an assistant Cook County public defender at 26th Street, I was once told by my boss that there are only three ways to win a case: prepare, prepare and prepare. That is the best advice that I can give anyone.

When it is all over, you get a small white feather quill from the Supreme Court, but better than that, you have a tremendous feeling of accomplishment. Forgive the cliché, but you can put that small white feather in your cap.

Getting involved
This was a case that had been handled by my office from the beginning. It was the case of a convicted Chicago rapist who claimed his Sixth Amendment right to “confront” his accuser was violated during his 2006 trial in which he was convicted of the 2000 sexual assault of a South Side Chicago woman. We tried the case and argued all of the appeals, which included argument before the Illinois Supreme Court. It was an absolute honor and privilege to argue before the U.S. Supreme Court.

Preparing for court
It was a team effort. Alan Spellberg, supervisor of my Appeals Division, put me on a schedule several months before my argument in December. I set aside several hours a day to meet with my Appeals Team and go over case law and fine-tune my argument. We did a practice moot court in-house once a week, and then, a week before my argument, a moot court was held at IIT Chicago-Kent. I have to admit, some of the questions I received at Chicago-Kent were just as tough as the ones I tackled from the Supreme Court justices!

Lasting impressions
I was extremely impressed with the formality of the whole Supreme Court experience. First of all, the physical aspects of the courtroom are just majestic. The intelligence and professionalism of all of the justices was also quite intimidating. I think any lawyer would agree that having the chance to argue before the Court is a once-in-a-lifetime experience.

Expecting the unexpected
One thing that I found surprising is that certain justices who ruled in my favor were actually the ones who gave me the hardest time! I was told after my argument that the justices many times do that on purpose—they play devil’s advocate—in order to prove their position to the other justices.

Advice for first-time advocates
Prepare, prepare, prepare! You have to read and be able to give the facts and holdings of every case cited in your brief as well as your opponent’s brief and the amicus briefs. Narrow your argument down to six or seven bullet points because you will not have enough time to hit every point. Be respectful of the Court and do not interrupt a justice or argue with them. Know your argument backwards and forwards and do not “read” off of your notes. Making eye contact is very important.
FOCUS ON FOUR ALUMNI ADVOCATES

Edward H. Tillinghast, III ’83
Partner, Sheppard Mullin Richter & Hampton LLP, New York, N.Y.
Getting involved
I have been counsel of record in three cases in the Supreme Court. The first case arose out of a litigation in federal court to recover on publicly traded notes on behalf of an ad hoc committee of note holders. There was also a jurisdictional issue. For the second case, I was retained by 175 members of Parliament to submit an amicus brief in the Rasul v. Bush case involving the Guantánamo Bay detainees’ right to be charged and tried, upon a recommendation from a group of constitutional law scholars. The third case involved the adequacy of trial counsel in a capital punishment case previously decided by the Florida Supreme Court and for which I was recommended by two New York–area law school professors and a practicing attorney.

Preparing for court
In each instance, I worked with a group of colleagues and spent a considerable amount of time over a period of weeks reading and analyzing most of the relevant cases. I also attended a few unrelated Supreme Court arguments and did moot arguments with a group of constitutional law scholars and Supreme Court practitioners.

Lasting impressions
While the experience was daunting at times in terms of the sheer mass of case law I needed to have a thorough command of, the actual arguments were remarkably engaging and “non-intimidating.” The justices’ questions were thoughtful and very probing of the limits of my arguments. Despite the grandness of the courtroom, counsel’s close proximity—being at near-eye level—to the justices had a remarkably calming effect that made arguments more “conversational.” In fact, it was more of a “discussion,” and the formality of the courtroom was lost behind me as I focused on the justices.

Expecting the unexpected
I felt completely separated from the grandness of the courtroom and the observers and singularly focused on the justices from the counsel table and the podium. In addition, the counsel’s pre-argument room was a home-away-from-home, where the Clerk of the Court made all the resources of the Court available in a very friendly way, including needles and thread if you lost a button.

Advice for first-time advocates
Leave no stone unturned in your preparation, do not assume any particular position by any one justice’s questions or based upon their prior opinions, and be sure to relax and get a good night’s sleep for several nights before your argument. And, cherish your quill pen as a gift of the Court.
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