

MEDIA MENTION

Bert Rein's Landmark Supreme Court Debut Highlighted by *The National Law Journal*

The National Law Journal
July 17, 2013

The National Law Journal published a feature article July 15 on Wiley Rein founding partner Bert W. Rein, who led teams that represented the prevailing parties in two historic cases favorably decided by the Supreme Court of the United States last month.

Mr. Rein made his debut before the Supreme Court in October 2012, when he argued *Fisher v. University of Texas*. He returned in February 2013 to argue *Shelby County, Ala. v. Holder*. Both cases received extensive national coverage and are considered to be among the most important of the 2012-2013 term. The *National Law Journal* article noted his significant wins in both cases.

In an interview with the publication, Mr. Rein said he was never overwhelmed by the prospect of arguing two landmark Supreme Court cases in the same term. "I'd go in and do it again anytime," he said.

"There's too much mystique around the court," Mr. Rein said. "I always thought this is not a mystery, it's a court. You can't be Daniel Webster and get up there for two days and talk anymore. This was doable." While noting that the process was similar to that of any other court, Mr. Rein acknowledged that "you put more into it" when arguing before the Supreme Court. "It's an intellectual challenge," he said.

In *Shelby County*, the Court found Section 4(b) of the Voting Rights Act unconstitutional, ruling in favor of Wiley Rein's client, Shelby County, Alabama. In its 5-4 decision, the Court concluded that the law's decades-old formula can no longer be used as a basis for

Related Professionals

Bert W. Rein
Founder
202.719.7080
brein@wiley.law

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determining which states must obtain approval from the U.S. Justice Department before making changes to their election rules. The formula in Section 4(b) identified nine states, and parts of seven others, as "covered jurisdictions" based on voting data from more than 40 years ago. The Supreme Court explained that "Congress must ensure that the legislation it passes to remedy" voting problems "speaks to current conditions."

Mr. Rein said the ruling was a clean win for Shelby County. "If we wrote the scenario beforehand, this is the scenario we would have written," he said. "They wanted relief from having to go through preclearance" and, a result of the Court's decision, "they won't have to."

In *Fisher*—a major appeal of the University of Texas (UT) at Austin's use of race in undergraduate admissions—the Justices ruled by a 7-1 margin that race may not be considered in college admissions unless the program can withstand strict legal scrutiny. The Court agreed with Wiley Rein's client, Abigail Fisher, that "if a nonracial approach ... could promote the substantial interest about as well and at tolerable administrative expense," then the university may not consider race. The case was remanded to the U.S. Court of Appeals for the Fifth Circuit for consideration of whether the university's program can meet strict scrutiny.

Mr. Rein told *The National Law Journal* he was satisfied with the Supreme Court's *Fisher* ruling, even though it means more litigation on remand. He will continue with the case as it heads back to the Fifth Circuit, and said he is confident of victory there too.

UT "cannot meet the standard the Supreme Court has set," Mr. Rein said. The outcome of the Fifth Circuit remand will dictate what happens next in the affirmative action battle, he added.

The *National Law Journal* article can be read [here](#).