

Rising Star: Orrick's Brian Goldman

Law360 (August 3, 2018, 2:13 PM EDT) -- Brian Goldman of Orrick Herrington & Sutcliffe LLP has secured several headline-grabbing victories on behalf of his clients this year, including a Ninth Circuit decision that found zoning regulations on gun shops legal, earning him a spot as one of five attorneys under age 40 honored as Law360's Appellate Rising Stars.

HIS BIGGEST CASE:

In October, Goldman and his team secured a Ninth Circuit victory over a California zoning law that restricted where guns could be sold. He was brought on to lead Alameda County's defense of the ordinance, after a three-judge panel revived the challenge brought by would-be gun shop owners who were unable to secure a permit under the local policy.

In a 9-2 ruling, the en banc court found that the ordinance did not violate the Second Amendment, which the U.S. Supreme Court upheld in May.

Goldman noted that while typical appellate cases build on years of precedents, the Second Amendment case law, "in its modern form," only came into existence in the last decade, when the high court recognized in 2008 that an individual has the right to keep and bear arms. But while challenging, the case also gave him the opportunity to come up with original arguments and research and argue first principles, he said.

"This was my first case before an en banc court, which is a very different type of oral argument experience, in terms of the pace and intensity of questioning," Goldman said.

RISING
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STAR



Brian Goldman
Orrick

Age: 35

Home base: San Francisco

Position: Partner

Law school: Stanford Law School

First job after law school: Law clerk at the Ninth Circuit

HIS PROUDEST MOMENT AS AN ATTORNEY:

Goldman has scored a number of wins on behalf of his immigration clients, who are often noncitizens facing deportation, which means that the stakes are sometimes “life or death, or close to it,” he said.

A few years ago, he was retained to overturn a First Circuit decision that found a man could be deported due to ambiguous state-level offenses. Goldman and his team were able to persuade the panel to rehear the case. The panel ultimately sided with his client, citing the “extreme hardship” his deportation would pose to his disabled wife and to his sick son, as it was unclear which section of a state statute he was convicted under in 2006.

Goldman said it was rewarding to be involved in the case and to witness how “strong advocacy could make all the difference in a client’s life.”

“The easiest thing would have been to say, ‘This case is over,’ or deny rehearing and move on to the next case,” he said. “But the panel understood the significance of the issue of our client and for others who would be affected by the precedent, and in their discretion decided to grant rehearing and come out the other way.”

WHAT MOTIVATES HIM:

Cases that go up on appeal usually have issues that have fair arguments on both sides, Goldman said, adding that courts are often asked to apply a statute to circumstances that Congress “never even envisioned” when it wrote the law.

As an appellate lawyer, Goldman is often called upon to help clients preserve their victories or overturn their losses on “what are usually the most important cases they have at the time,” he said. This can mean either helping companies on cases that might impact their businesses or other litigation, or individual pro bono clients in a “critical stage of proceedings.”

“Those are the cases where you get to flex all the muscles of advocacy, and can really make the difference in trying to help the court reach the better of two — often imperfect — results that are the choices before it,” he said. “It’s a good challenge.”

WHY HE'S AN APPELLATE LAWYER:

Between clerking for the late Circuit Judge Stephen Reinhardt in the Ninth Circuit and for Justice Sonia Sotomayor in the Supreme Court, Goldman worked at the U.S. Department of Justice, where he handled civil appeals for the federal government.

Goldman said his experience in appellate practice from the advocates’ side of the bench made him realize that it was a good fit for him, allowing him to work on a broad range of issues.

“I could become a specialist in a particular form of advocacy, and a particular phase of the process, but through that lens work on many different subject matter areas,” he said.

— *As told to Tiffany Hu*

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2018 Rising Stars winners after reviewing more than 1,200 submissions. This interview has been edited and condensed.