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Jones Day, WilmerHale, Bancroft Clean Up At High Court

By **Jake Simpson**

Law360, New York (July 08, 2014, 5:49 PM ET) -- Behemoths Jones Day and WilmerHale and the boutique law firm Bancroft PLLC have earned appellate bragging rights, putting up the best records before the U.S. Supreme Court this session.

Just seven law firms argued at least four cases before the high court this term. Jones Day, which has more than 1,700 attorneys in the U.S. alone, and the 13-attorney Bancroft — buoyed by former U.S. solicitor general Paul D. Clement — won nine of the 10 combined cases they argued.

The two vastly different firms were responsible for, among other victories, Hobby Lobby's landmark triumph over a provision of the Affordable Care Act and the dismantling of many of President Barack Obama's recess appointments.

WilmerHale, meanwhile, lost just two of the seven cases it argued before the justices.

SCOTUS ORAL ARGUMENT SCORECARD, 2013 TERM		
Firm	Record	Notable Case
Jones Day	4-0	NLRB v. Canning (win)
Bancroft	5-1	Burwell v. Hobby Lobby (win)
WilmerHale	5-2	Pom Wonderful v. Coca-Cola (win)
Gibson Dunn	4-2	Alice Corp. v. CLS Bank (win)
Goldstein & Russell	3-2	Chadbourne & Parke LLP et al v. Troice (win)
Hogan Lovells	2-2	Highmark v. Allcare (win)
Sidley Austin	1-3	Alice Corp. v. CLS Bank (loss)

Leading the win list is Jones Day, which won all four of its Supreme Court cases. A different

Jones Day partner was responsible for oral arguments in each case, and three of the partners appeared before the high court for the first time. One of the newcomers was Noel J. Francisco, who scored one of the term's biggest victories when the high court ruled that three recess appointments Obama made to the National Labor Relations Board in January 2012 were unconstitutional.

While Jones Day spread its appellate wealth, Bancroft was a one-man wrecking crew. The boutique litigation firm employed the biggest single winner of the term — Clement, who argued five of the firm's cases and won four of them. One of those victories was the Supreme Court's contentious 5-4 ruling in favor of Hobby Lobby Stores Inc. that found closely held for-profit corporations are exempt from an Affordable Care Act provision requiring for-profit companies to offer birth control coverage to their employees.

WilmerHale argued the most cases before the high court this session. The firm had perhaps the best day of any appellate department on June 12, when it scored victories for Pom Wonderful LLC on its claim of false advertising against The Coca-Cola Co. and for bankruptcy trustee William J. Rameker on his contention that inherited individual retirement accounts are not protected assets that can be shielded from creditors.

Gibson Dunn's partners conducted oral arguments in six cases this term and won a major intellectual property decision when the Supreme Court ruled unanimously in *Alice v. CLS* that computerized abstract ideas are not patent-eligible. The firm was also buoyed by the work of former U.S. solicitor general Theodore B. Olson on behalf of hedge fund NML Capital Ltd., which the high court ruled could engage in broad discovery as part of its long-running dispute with the Republic of Argentina over a 2001 bond default.

Goldstein & Russell PC, whose attorneys are frequent contributors to the popular SCOTUSblog website, argued five cases this term and was led by named partners Thomas C. Goldstein and Kevin K. Russell. Goldstein won all three cases he argued before the court, including a victory against several major law firms in *Chadbourne v. Troice*, when the court ruled that the firms could be sued by investors victimized by Robert Allen Stanford's \$7 billion Ponzi scheme.

The septet of law firms was responsible for a whopping 34.3 percent of victories among the 67 cases that were orally argued before the Supreme Court this term. But not all of them sport a rosy record.

Hogan Lovells split its quartet of cases before the high court, while Sidley Austin was victorious in just one of its four cases. And Sidley scored only a partial victory in its one win, *Utility Air Regulatory Group v. EPA*, when the court scaled back the agency's authority to regulate greenhouse gases from stationary sources but left the door open for federally regulating greenhouse gases through the Best Available Control Technology program.

Among individual appellate litigators, Clement had the most appearances before the Supreme Court this term with five. WilmerHale's Seth P. Waxman, himself a former U.S. Solicitor General, and Hogan Lovells' Neal Katyal, who previously served as acting solicitor general, had four appearances each.

Correction: An earlier story incorrectly stated the number of cases Bancroft argued before the Supreme Court this term. The error has been corrected.

--Additional reporting by Sindhu Sundar, Ryan Davis, Dan Ivers, Erica Teichert, Evan Weinberger, Sean McLernon, Ben James and Max Stendahl. Editing by Elizabeth Bowen and Philip Shea.