

LA Boutique Building a Reputation Before High Court

MARCIA COYLE

By the end of the U.S. Supreme Court term in June, Peter Stris of the Los Angeles boutique firm Stris & Maher already had two arguments lined up for the next term and a third in which he is working closely with Vermont officials—an enviable situation for any high court advocate.

Stris will head into the 2015 term next fall with four high court arguments under his belt: two in the 2005 term and one each in the 2007 and 2009 terms.

“It has been a busy term so far” for his nine-lawyer firm, he said. “It’s the first time we’ve had two cert grants in the same term. In the 2005 term, when I kind of started doing this as a baby lawyer, I argued two cases—a habeas case where I was bottom-side [the respondent] and an ERISA case, which was our granted petition.”

Stris was drawn into high court work as a partner in a small business litigation firm in Los Angeles.

“We did some appellate work, but it was more trial work,” he said. “I decided I really wanted to do more appellate work and some opportunities presented themselves, particularly if we were willing to do pro bono cases.”

Stris sold his interest in the firm to his partners in 2005 and took some time away from practicing to teach and launch a non-law-related business before starting Stris & Maher with Brendan Maher, a fellow Harvard Law School graduate. They describe it as an “entrepreneurial law firm devoted to complex business litigation and appeals.”

They soon developed a reputation for representing the plaintiffs side in business cases. Today, Stris said, “We’re fairly evenly divided between defendant and plaintiff sides. In the Supreme Court, we tend to represent smaller players. Even though we represent large business interests in general, for something that goes to the Supreme Court they’re going to hire Carter Phillips [of Sidley Austin] or Seth Waxman [of Wilmer Cutler Pickering Hale and Dorr].”



PETER STRIS OF STRIS & MAHER.

Stris will face two veteran advocates in the new term when he argues the securities case, *Merrill Lynch, Pierce, Fenner & Smith v. Manning*, and the health-insurance case *Montanile v. Board of Trustees of National Elevator Industry Health Benefit Plan*. *Merrill Lynch* is represented by O’Melveny & Myers’ Jonathan Hacker, and the trustees’ counsel is Neal Katyal of Hogan Lovells.

Stris represents Robert Montanile pro bono. Montanile received a \$500,000 settlement after being seriously injured when a drunk driver struck his vehicle after running a stop sign. The high court will decide whether the Employee Retirement Income Security Act (ERISA) allowed his insurer, National Elevator, to impose a lien on that settlement to recoup its \$121,000 in initial medical expenses even though the settlement funds have been disbursed to pay legal fees and the care for himself and his 12-year-old daughter.

His involvement in the third case next term—*Gobeille v. Liberty Mutual Insurance Co.*—stemmed from health care work the firm does. His partner, Maher, had worked with Vermont officials on some legislative initiatives, Stris said, and when the U.S. Court of Appeals for the Second Circuit decision came down in *Gobeille*, he asked Maher to put him in touch with the state attorney general’s office because he believed the decision was wrong.

The case asks whether self-funded

insurers have to give certain information to state databases on request or whether ERISA exempts them and their third-party administrators.

Vermont Solicitor General Bridget Asay did a “terrific job” on the petition, Stris said. “We worked with Bridget on the petition-stage work and we were pretty excited when the petition got granted. There hasn’t been an ERISA pre-emption case decided by the court in some time.”

Wilmer Cutler’s Waxman is on the other side, representing Liberty Mutual.

“What started as kind of a fun, largely pro bono enterprise has morphed into a meaningful, but not the biggest, part of our private-sector practice,” Stris said. “Our Supreme Court work is probably 15 percent of the firm’s practice—a small piece, but one that went from entirely pro bono to a mixture of paid and pro bono.”

Because the firm is small but growing fast, he added, “striking the right political balance” in defense and plaintiff work is “tricky.”

For example, Elizabeth Brannen joined the firm from Barnes & Noble Inc., where she was director for intellectual property.

“She joined to head up our intellectual property practice,” Stris said. “That’s an area where we represent essentially defendants. We want to do some of these high-profile Supreme Court cases, but we have to be careful. If we’re perceived as a traditional plaintiffs’ firm, you tend to scare off your base. We’re always having internal conversations about how to thread that needle.”

Ultimately, Stris said, “I would love to have the reputation of someone like David Frederick [a veteran appellate advocate with Kellogg, Huber, Hansen, Todd, Evans & Figel] or Susman Godfrey [a boutique plaintiff and defense firm handling complex litigation]. A lawyer and a firm known for handling big cases.”

Contact Marcia Coyle at mcoyle@alm.com.