

WINNING | A SPECIAL REPORT

The lawyers in our 2016 special report all have something in common—they score big wins in court. But how do these battle-tested litigators make their clients happy? As they detail, it's as much about the process as it is the outcome. They have learned that they must trust their own styles of trial practice, be credible, know the documents, and connect with and respect the jury. In cases ranging from products liability to patent law, they've mastered their craft. These are the stories of our winning litigators.

GREGORY GARRE LATHAM & WATKINS

Gregory Garre readily acknowledges that convincing a majority of the justices on the U.S. Supreme Court to uphold affirmative action at the University of Texas in 2016 was a long shot.

"Most, if not the vast majority, of Supreme Court observers thought we were going to lose," said Garre, global chairman of Latham & Watkins' Supreme Court and appellate practice. Garre had defended the program before, and the court in 2013 sent the case back for further review. It was not a good omen when the case returned to the court and the justices agreed to hear it again.

But Garre, a former U.S. solicitor general during George W. Bush's administration, took it as a challenge to "find a way to cause the justices who have thought a lot about these issues to think about it again." The biggest hurdle was swing Justice Anthony Kennedy, who had never voted in favor of an affirmative-action program.

Garre freshened the argument to make a stronger case that diversity



among—and within—races was a compelling reason to consider race. He also demonstrated, complete with maps, that the university's purportedly race-neutral "top 10 percent" admission plan alone was insufficient.

The new strategy worked. On June 23, Kennedy wrote for a 4-3 majority in *Fisher v. University of Texas at Austin (Fisher II)* that the university's race-conscious admission program was constitutional.

It was a landmark win for Garre. Will the decision be undermined by new Supreme Court nominees during a Trump administration? Not right

TRIAL TIPS

- Particularly for oral argument, distill the case down to one or two or three points you want to get across, and present your case in clear and simple terms.
- Listen to the judge's question and answer it. It is easy to get caught up in the moment and try to make the points you prepared, instead of responding directly to the question that is actually asked.
- See questions as your friend, not the enemy. A judge's questions tell you what he or she is thinking about, and allow you to address their most pressing concerns—exactly the opening you want.

—GREGORY GARRE

away, Garre said, but depending on which justices Trump gets to replace, the court could become "quite skeptical" of affirmative action again.

—TONY MAURO