

Rising Star: Mayer Brown's Michael Kimberly

By Daniel Siegal

Law360, Los Angeles (April 12, 2016, 11:53 PM ET) -- Racking up repeated appearances, and wins, before the U.S. Supreme Court while still an associate, including scoring a unanimous victory for voters challenging gerrymandering in Maryland, has made Mayer Brown LLP partner Michael Kimberly one of Law360's top appellate lawyers under age 40.

The 35-year-old Rising Star may have only made partner effective Jan. 1 of this year, but he's already built a yearslong track record of effective advocacy before the nation's highest court, including serving as lead counsel for the appellants in *Shapiro v. McManus*. In December, the high court ruled 9-0 in favor of Kimberly's clients — eight Maryland voters challenging the state's 2011 redistricting — and held that claims of partisan redistricting have a right to be heard before a special three-judge district court panel. The ruling revived the suit and reversed a Fourth Circuit ruling that had affirmed its dismissal.

Kimberly told Law360 that working on the Shapiro case, despite it not being in areas like antitrust, environmental law, administrative law, where he has more specialization, was a matter of applying the same fundamental principles of statutory analysis that underlie almost all of his Supreme Court advocacy.

"The gerrymandering case is at its core about how to interpret a statute.... And it's about the First Amendment, and those are two things I know very well," he said. "Those common themes are more prevalent than meets the eye."

Also in 2015, Kimberly served as lead attorney in *France v. United States*, arguing before the court that disability payments are "earnings" under the protection of the Consumer Credit Protection Act. The U.S. Solicitor General actually confessed error in the case and admitted Kimberly's position was correct, and the Department of Labor plans to issue guidance switching the government's position to the one Kimberly argued, according to Mayer Brown.

Kimberly said that his passion for Supreme Court litigation can be traced back to his time at Yale Law

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Michael Kimberly
Mayer Brown

School, where he landed a spot in the 2005 inaugural class of the Yale Law School Supreme Court Clinic. The clinic, a joint venture between the school and Mayer Brown, gave Kimberly a chance to gain crucial experience crafting petitions for review before the high court while still in school.

“Having been a student in the Supreme Court clinic was a huge leg up, because I came to firm knowing far more than anyone else in my position without the clinic experience would know about that litigation,” he said.

Kimberly said his time in the clinic also gave him a chance to forge connections with notable Mayer Brown partners such as Andrew Pincus and Charles Rothfeld. When he graduated into the tough economic climate of 2008, Kimberly said he decided to focus on looking for personal connections at any potential firm, and found Mayer Brown not only welcoming, but a place where could become a “go-to associate” for Supreme Court work.

Kimberly has since managed to build a track record in cases that on first glance appear to cover a disparate range of subject matter — from gerrymandering and disability payments to a series of environmental cases such as 2013’s *Georgia-Pacific West Inc. v. NEDC*, which saw the Supreme Court uphold a long-standing run-off regulation after a Ninth Circuit ruling would have imposed costly new requirements.

But despite the differences in the facts surrounding these cases, Kimberly said the key to crafting an effective argument in any appeal, but especially before the Supreme Court, is primarily a matter of convincing the court of the correct way to interpret a statute.

“It is not especially fashionable these days to say you’re an appellate generalist,” he said. “But the truth is, litigating those cases, especially at the Supreme Court level, they implicate all the same tools that a generalist would use.”

--Editing by Patricia K. Cole.
