

Millett takes the lead for most arguments by a woman

BY TONY MAURO

Patricia Millett, head of the Supreme Court practice at Akin Gump Strauss Hauer & Feld, made it into the history books on Tuesday by arguing her 31st case before the Supreme Court – more than any other woman in history.

But it wasn't a cakewalk. Justice Antonin Scalia gave her a hard time as she argued on behalf of tribal sovereignty in a dispute over land in Michigan that the U.S. took title to for an Indian casino.

More than once, a question from Scalia led Millett to address him as "Justice Scalia, with respect," as she disagreed with his analysis of the case. But Scalia persisted, finally telling her, "you can say that again and again, counsel," but he was not convinced.

A less-experienced advocate might have buckled under Scalia's barrage, but Millett more than held her own, succeeding in her 10 minutes at the lectern to get her points across for her client. She even reminded the Court of testimony Scalia had given in 1976 as a young Justice Department official that was relevant to the case.

Her performance in tough cases like Tuesday's *Match-E-Be-Nash-She-Wish Band of Pottawatomis Indians v. Patchak* is part of why Akin Gump is celebrating Millett's argument milestone, says firm chairman R. Bruce McLean.

"She is a fabulously talented lawyer who is at least as good as any Supreme Court advocate of her generation," said McLean. "The firm is extremely proud of her."

Akin hired Millett from the solicitor general's office in 2007, a year after it had raised the profile of its Supreme Court and appellate practice with the hiring of SCOTUSblog founder Thomas Goldstein,



AKIN GUMP'S PATRICIA MILLETT

Goldstein left in late 2010 because of a client conflict, McLean said – an online poker enterprise that wanted more time from Goldstein but posed conflicts for other parts of the Akin firm, including the Indian law practice that generated Millett's argument on Tuesday.

"Our Supreme Court practice was left in very good hands" when Goldstein left, McLean said. "We haven't missed a beat." It remains a "jewel in the crown" at Akin, generating both profit and visibility, he said. "It's very important and very visible," he said, a sign to clients that "this is an expertise that is available when needed."

Millett's 31st argument puts her slightly ahead of Arnold & Porter's Lisa Blatt total of 30 in the back-and-forth competition for the title of "the woman with the most Supreme Court arguments." Friends and veterans of the solicitor general's office where they argued most of their cases, both Millett and Blatt had labored under the shadow of the late Beatrice Rosenberg, a Justice Department lawyer who was thought to have argued 30 cases between the 1940s and 1970s, until a recent tally placed her at 29. (A new article in the *Journal of Supreme Court History* tells the story of the late Bessie Margolin,

who argued 28 Supreme Court cases as a Labor Department lawyer between 1945 and 1965.)

"Beatrice should count double," said Millett. "It was a lot harder for her to be a trailblazer then. She's the Babe Ruth of it all, one of the people who made it possible for us."

Millett said women lawyers no longer face the impediments in getting Supreme Court work that they might have encountered in years past. "I don't feel it," she said, adding that "it helps that there are so many women general counsel" now who are making decisions about whom to hire for a Supreme Court representation. Women are more common in the U.S. solicitor general's office, she said, as well as in the offices of state attorneys general or SGs.

As sanguine as she is about the growing importance of women in the Supreme Court bar, Millett also points out that her record-setting number of 31 is less than half the number of cases that some top male advocates have under their belts – 76 for Sidley Austin's Carter Phillips, for example.

"The contrast is noticeable," said Millett. "But we're getting there. Every step forward is still a step forward." She adds that she is looking forward to the day when "there will be hordes of women rolling past us" up the path toward setting new argument records.

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