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Long Beach Attorney Before Supreme Court

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Editor

When the Supreme Court of the United States sat down at 10 a.m. sharp Jan. 12 for its first arguments of the new year, Long Beach attorney David Haberbusch stepped forward to the podium, just 10 feet away from the bench of the highest court in the land.

He started with the traditional, "Mr. Chief Justice, may it please the court..." and got out one more sentence out before Justice Stephen Breyer interrupted with a question, starting a peppering of questions from the justices that lasted much of the half hour he had to make his case.

"When you're there, it's almost surreal because you're talking to all these people you read about and have heard about for so long," Haberbusch said from the quiet of his downtown Long Beach office last week. "To think of all the cases argued there, it's very humbling."

Haberbusch is a partner in the firm of Haberbusch & Fienberg, based out of the California Bank building on Ocean Boulevard. The firm handles primarily debtor/creditor cases, not the kind of news-headline cases one commonly associates with the Supreme Court.

The court takes cases on a variety of topics where the law is unclear, however it doesn't take many cases — about one out of each 700 appealed to it.

Haberbusch said that when he

got word that his case was going to the Supreme Court, he was nervous — not just because he'd have to stand in front of the justices, but also because it meant a possible setback for his clients. They had won at every level so far, from the first Bankruptcy Court hearing all the way up to the Appeals Court. The Supreme Court would only take it on if they found it interesting and possibly wanted to reverse the lower court rulings.

The case, the Internal Revenue Service v. Galletti, involved back employment taxes owed by a partnership from the now-defunct Marina Cabrillo Hotel in San Pedro. Several years later, when the individual partners of the former hotel filed bankruptcy, the IRS filed claims against the individuals for the owed money. The question before the court was whether the IRS could make this claim after just notifying the partnership of the money owed and not the individual partners.

While the issue itself may mostly be of interest to tax attorneys and bankruptcy lawyers, the chance to state your case before the Supreme Court is the dream of almost every lawyer.

It's the place that legendary cases were argued — Brown vs. Board of Education, Roe vs. Wade and many more. Haberbusch said at times he tried to sit back and soak it all in, espe-

cially when he took trips back to Washington late last year to watch the court in action and get a feel for the proceedings.

But not when the justices were seated.

Arguing in front of the Supreme Court, and preparing to argue in front of them, is unlike anything else in law, Haberbusch said.

First, you only get 30 minutes to make your case, and attorneys are warned not to restate the facts they made in their briefs. The justices interrupt to ask questions and probe the lawyer and the law. For example, Justice Antonin Scalia appears to really relish the oral arguments and questions, Haberbusch said.

Haberbusch said the first time he caught his breath and looked up at the clock in his half hour he was afraid most of it would be gone — instead there were 20 minutes left. He went from being afraid he would not be able to get everything in to not being sure he could fill the half hour, he said. But, after a few more questions, that proved not to be a problem.

There were times when he said he felt like he connected with the court — he found them all leaning back in their chairs and nodding — and that Justice Ruth Bader Ginsburg especially seemed to like his reasoning, she often nodded during his answers.

However, he said that the arguments of the attorneys were not likely to change the minds of the justices.

"I never harbored any illusion that I was going to sway their opinions," Haberbusch said. "They come in very well prepared and are very smart people."

Not much later the white light on the podium facing the justices came on, and a five minutes later, the red light that signaled the end of the arguments turned on.

"I was unnerved at being at eye level with the justices. Nonetheless, I found the dialogue with the justices to be spirited and lively, a true intellectual enterprise," Haberbusch said later.

When he and his family left the court later in the day, they saw several of the people who had been in the gallery pointing at him and whispering, recognizing him from the floor.

A couple months later, the Supreme Court issued a ruling that favored the IRS, although many of the details will have to be hashed out in a lower court again. The issue is ongoing.

Looking back, Haberbusch said he feels proud to have carried on a conversation with the Justices and have done well in a pressure-packed case. He said he also remembers that the justices called him by name. And that he is now part of a long and proud legal tradition in our nation.