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South Florida's SCOTUS Veterans Offer Secrets to Success

Three attorneys who have argued before the U.S. Supreme Court and two state appellate judges lent their expertise to a Hollywood lawyer who will appear before the justices next month.

By **Celia Ampel** | November 09, 2017

Asher Perlin

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South Florida lawyers who've been through the wringer of the U.S. Supreme Court know what relentless, ruthless questioning sounds like—and they tried their best to emulate it for a Hollywood attorney preparing for his first appearance before the nation's justices.

Three attorneys who've prevailed before the U.S. Supreme Court—Howard Blumberg, Harvey Sepler and Howard Srebnick—joined former Florida Supreme Court Justice Raoul Cantero and current Third District Court of Appeal Judge Vance Salter on a moot court panel Wednesday night in Miami.

The group was there to critique solo practitioner Asher Perlin, who will argue before the court Dec. 4 on behalf of American victims of a 1997 terrorist attack in Jerusalem. Iran owes a $71.5 million default judgment for sponsoring the attack. In *Jenny Rubin v. Islamic Republic of Iran*, Perlin will argue his clients should be able to collect funds through the seizure of ancient Persian artifacts loaned by Iran to the University of Chicago.

The Chicago federal court and the U.S. Court of Appeals for the Seventh Circuit ruled in Iran's favor, finding a "commercial use" exception to a foreign state's sovereign immunity does not apply to the 30,000 clay tablets because they are being used by the university, not by Iran.

“This is an oddball case that draws attention,” Perlin told about 50 members of the Rosemary Barkett Appellate American Inn of Court who gathered to watch the moot session. ”These are emotional issues.”

But the case itself hinges on a “very dry issue of statutory interpretation,” which is whether the law allows someone with a judgment to collect on any property of a foreign state if it’s a sponsor of terrorism, he said.

The panel quizzed Perlin on the intricacies of the law, but they also offered advice about presenting his argument.

“Justice Kennedy interrupted me in the first 30 seconds,” said Blumberg, who as a Miami-Dade public defender won a 2013 case about whether a drug-sniffing dog can search a front porch without a warrant. ”You have to be ready for that.”

Blumberg told Perlin to start his argument with something that would “really catch” the justices’ attention. Cantero, now a White & Case partner in Miami, agreed but warned Perlin he could lose the jurists by distracting them right off the bat.

“Don’t start with a controversial proposition,” Cantero said.

Srebnick has argued before the Supreme Court twice, and last year persuaded the justices that criminal defendants should be allowed to use untainted assets to pay for the lawyer of their choice. He advised Perlin to emphasize that any court finding would only affect the very short list of countries the State Department has designated as sponsors of terrorism.

The list can change, but right now it only includes Iran, Sudan and Syria.

“These are countries Congress has intended to treat differently,” agreed Sepler, a former public defender who won a 1999 case when the court held an anonymous tip that someone has a gun is not enough to justify a police stop-and-frisk.

Salter worried the justices could get stuck on the idea that a ruling in Perlin’s favor might lead other countries to act differently toward American artifacts: ”Reciprocity is what we worry about with, [say], the Declaration of Independence, if we loaned it to Yemen,” he joked.

He urged Perlin to remind anyone worried about the artifacts that his clients don’t intend to “sell them on eBay.” Instead, the victims plan to have a court-appointed receiver locate a museum or other institution to buy them.

“My clients, one of them said, ‘We don’t want the rocks!’” Perlin said, laughing. “‘We want the money.’”