

State Solicitors General to Make a Mark at Supreme Court This Week



State solicitors general will regularly be present at the US Supreme Court this week, with several high-profile cases being heard. Nebraska's Solicitor General, Jim Campbell, is due to appear on Tuesday on behalf of six states challenging President Joe Biden's plan to relieve student loan debt. The next day, lawyers from New York and New Jersey will argue over the fate of a 70-year-old interstate agreement designed to combat organized crime at the port between the two states.

Collectively, states are the second-most frequent advocate at the Supreme Court, behind the federal government. Of the 24 state cases before the Supreme Court last term, 22 were argued by either a state solicitor general or their deputy. So far this term, state solicitors general have appeared in 13 cases before the court, according to a Bloomberg Law analysis.

New Jersey Solicitor General Jeremy Feigenbaum, a former Kirkland & Ellis associate who clerked for Justice Elena Kagan, will debut in-person before the justices in the dispute with New York. He previously argued the *PennEast Pipeline Co. v. New Jersey* case in April 2021, when the court was closed due to Covid-19, and proceedings were held remotely by phone. In the current case, he will argue that New Jersey can lawfully withdraw from the Waterfront Commission Compact and the bi-state agency it created in 1958 that no longer works as intended. New York is asking the court to stop New Jersey from unilaterally terminating the agreement and seizing the agency's powers and assets for itself, a move the state says will cause irreparable harm to its sovereign interests.

Campbell also makes his first Supreme Court appearance in the student loan case. He previously worked as senior counsel at Alliance Defending Freedom, a conservative legal group focused on religious liberty. Carolyn Shapiro, who served as solicitor general of Illinois from 2014 to 2016, thinks the attorneys general association has had a lot to do with the changes in how states are hiring for the role of solicitor general. She says there has been an effort nationally to not treat the SG position as an ordinary line attorney job, with AGs appointing people or recruiting from private practice or academia, due to their specific expertise in different areas or their professional experience.

Before Michelle Kallen joined the Virginia Solicitor General's Office in 2018 as deputy solicitor general, she said the US Solicitor General's Office was seen as the apex of appellate practice. Kallen, a partner at Jenner & Block who served as Virginia solicitor general from 2021 to 2022, says she now sees more junior associates asking about state solicitor's general jobs. "Now it's just much more a part of the appellate culture and kind of a well-known and respected direction to go if you want to be an appellate lawyer," she said.

REFERENCES:

State Solicitors General to Have Big Week at US Supreme Court