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How to Bring a Case to the Supreme Court and Win, The Exhibit, featuring Louie Castoria

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On October 5th, 2021, the Litigation Center hosted a virtual panel featuring our very own, GGU professor, Louie Castoria. Very few cases reach the U.S. Supreme Court-only 64 were decided in the recent-ended term. Professor Castoria was fresh off his Supreme Court win from the 64th case that vindicated First Amendment rights: Thomas More Law Center v. Bonta. Professor Castoria discussed how the Thomas More case came about. He revealed the major steps and missteps along the way. He explained how a threatening letter gave rise to the federal case, which was then reversed on appeal, and ultimately culminated in a successful petition for certiorari to the Supreme Court, resulting in a decision that protects the right of anonymous advocacy. "You never know what groundbreaking case may walk through your door." - Louie Castoria

STUDENT RECAP ON THE EVENT " HOW TO BRING A CASE T O THE SUPREME COURT AND WIN"

Listening to Professor Louie Castoria share his experience of taking a case to the Supreme Court was a wonderful experience. The way he spoke about the case, and the journey from the beginning up to the case being heard by the Supreme Court, was unlike any other attorney I have heard speak. He speaks with humility and provides a roadmap for how to accomplish large feats like this through teamwork. The legal profession is often framed as an independent experience – a cutthroat, vicious, competitive world. Hearing his experience of working as a team to get the case built up and taken through the entirety of our judicial system was such a refreshing narrative. Professor Castoria speaks with an ease and conversational manner that makes him deeply relatable. He speaks about this experience, and about himself, as though he remembers what it was like to be a law student, and that he believes in the power of the upcoming generation of new lawyers. He is calm and confident, without the ego often associated with successful lawyers. His personality was clearly present throughout his presentation, and the way he spoke gives me hope that I will be able to have as successful of a career as he has had so far. - Kate, 2L

Professor Louie Castoria's October 5, 2021, presentation on how he took a Constitutional rights case to the Supreme Court and won was a rare and illuminating look at the process from beginning to end. The case Professor Castoria litigated, called Americans for Prosperity Foundation v. Bonta, was ultimately decided on July 1, 2021. In listening to his presentation, I was struck by how humble and self-effacing Professor Castoria was given the great feat he had accomplished. Although Professor Castoria assured his audience that he made plenty of mistakes, he had also clearly done many things right. The case first came to Professor Castoria unexpectedly. It happened that Professor Castoria, an insurance defense attorney, had been given the case because his firm represented a non-profit client, the Thomas More Law Center. The Thomas More Law Center and other 501(c)(3) non-profit organizations were being asked to give the California Attorney General's Office a list of their private donors' information. Yet those non-profit organizations were concerned about the potential "chilling effects" these kinds of disclosures would have on donations, especially given security concerns the organizations had with the Attorney General's "leaky" data storage systems. On researching related cases, Professor Castoria found that another lawsuit had also been filed in the Central District of California by the non-profit organization Americans for Prosperity. Professor Castoria then proceeded to file suit and, after it had been heard unsuccessfully by the Ninth Circuit, appealed the case to the United States Supreme Court. In addition to putting years of hard work and good lawyering into a single case, Professor Castoria and his team ultimately succeeded because they leveraged good timing, sound strategy, and a little luck. As a starting point, the team wisely cited a case directly on point, which had been earlier decided by the Court. Here, that case was NAACP v. Alabama (1958). Furthermore, the plaintiffs sought to bring their claim to the Court through a "clean vehicle," or a case that comes to the Court with a good (almost perfect) evidentiary record, a clear issue, and a split among the circuits on the question. Professor Castoria had been diligently building the evidentiary record, including citing the testimony of an expert in anonymous non-profit donations. The clear issue, the team decided, would be framed in terms of preserving the First Amendment right to freedom of assembly. Finally, at the time Professor Castoria filed suit, multiple states and circuits had taken the same actions as California, and the circuits were indeed split. The Supreme Court granted certiorari in January to hear the combined cases of the Thomas More Law Center and Americans for Prosperity against the California Attorney General. Professor Castoria next did some recruiting. He pulled in an experienced attorney who had succeeded all 11 times that he previously argued a case before the Supreme Court. To further strengthen the case, Professor Castoria and his team requested amicus curiae briefs from nonprofits across the country who shared the same concerns. In total, they offered the Court approximately 250 amici from organizations across a range of political and ideological spectra. The Court was ultimately impressed and persuaded as they heard oral arguments via teleconference in April 2021 in Washington D.C. Professor Castoria described the unworldly and awe-inspiring circumstances of hearing the voices of the Justices, Roberts through Barrett, as he and his team sat around a conference table

in the nation's capital in their best suits. In July, Professor Castoria was pleased to hear the historic news that he won the case! Not many cases ever make it to the highest court, Professor Castoria explained. Rarer still is winning a case before the Court. So, for any attorney with the opportunity, bringing a case to the Supreme Court and winning is the experience of a lifetime. - Gwen, 2L

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