

Litigator of the Week: Keeping the Dream Alive

Covington & Burling's Jeffrey Davidson took the lead at oral argument for plaintiffs challenging the Trump Administration's decision to rescind the Deferred Action for Childhood Arrivals program—and won big.

By Ross Todd
January 12, 2018

Covington & Burling litigator Jeffrey Davidson is no stranger to high stakes in the insurance coverage, antitrust, and products liability cases he typically handles.

But with the fate of 700,000 so-called “dreamers” hanging in the balance, it's safe to say Davidson has never faced stakes like these. Working pro bono, he and co-counsel from firms including Gibson, Dunn & Crutcher are challenging the Trump Administration's decision to wind down the Deferred Action for Childhood Arrivals (DACA) program.

On Tuesday night, a federal judge in San Francisco gave Davidson and his clients, the Regents of the University of California and U.C. President Janet Napolitano, a milestone victory.

U.S. District Judge William Alsup of the Northern District of California temporarily blocked a move by Trump's Department of Homeland Security that would end the DACA program, which shields children of undocumented immigrants from deportation. In a 49-page opinion, Alsup granted the plaintiffs' bid to halt the scheduled March 5 DACA rollback. The judge found that the decision to end the Obama-era program was based on a faulty conclusion that the prior Administration



Jeffrey Davidson, with Covington & Burling.

exceeded its statutory and constitutional authority when implementing it.

In a phone conversation the day after the decision was handed down Davidson said the stakes were “tremendously high.” He called the people affected by the decision “wonderful Americans” and said working on the case has been a “really special” professional experience in keeping with

Covington's long standing tradition of pro bono work and public service.

Napolitano, who was one of the architects of the DACA program during her time heading DHS, reached out to Covington because of her ties to partners with whom she served in the Obama Administration. Davidson said that two dozen lawyers at the firm—a team spread across Covington's D.C., San Francisco, and Silicon Valley offices—have worked on the DACA case so far. He leaned on his partners for administrative law expertise, including D.C.-based Mark Lynch.

"This is a D.C. law firm that's been around for a long time, so administrative law is in the wheelhouse in our ordinary practice," Davidson said.

Covington was far from alone in representing individual dreamers, employers, states, unions, and other groups challenging the Administration's DACA decision in the five consolidated cases before Alsup. Eric Brown of Altshuler Berzon, Ethan Dettmer of Gibson, Dunn & Crutcher, and Mark Rosenbaum of Public Counsel also

argued on behalf of plaintiffs at a December hearing, and the plaintiffs have additional counsel from the California Attorney General's Office and Cotchett, Pitre & McCarthy.

A spokesman for the Justice Department said after the decision that it was "an unlawful circumvention of Congress" and that the department "looks forward to vindicating its position in further litigation."

Davidson said that the entire team representing the plaintiffs is committed to litigating the case to finality, if necessary.

"We still need to get to final judgment and we still need to get the complete administrative record from the government and there are still constitutional claims to be litigated," Davidson said. But he added that he and his co-counsel would welcome a legislative solution—"something to give [dreamers] some permanence and a path to permanent residence."

Said Davidson, "I think that's what we all hope happens. We're in this to protect these people and we will keep going as long as we have to."