

# Meet the Identical Twins Who Saved the Pac-12

By Patrick Smith

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## What You Need to Know

- David Silbert, of Kecker, Van Nest & Peters, and Greg Silbert, of Weil, Gotshal & Manges, are identical twin brothers.
- The brothers had never worked together on the same case, until they were both retained to take on a lawsuit involving the fate of the Pac-12.
- The duo and their firms secured an objectively decisive victory in Washington Supreme Court.

David Silbert and Greg Silbert are identical twin brothers who practice at two different law firms in two different cities. David has been at Kecker, Van Nest & Peters, out of Oakland, California, for 27 years, while Greg has been at Weil, Gotshal & Manges in New York for 17 years.

The brothers, both litigation attorneys with over 20 years of practice, had never worked together before on the same case—until they were both retained to take on a lawsuit involving



**Greg Silbert, partner with Weil, left, and David Silbert, partner with Kecker & Van Nest, right.**

Courtesy photos

the fate of the Pac-12, one of the five largest athletic conferences under the NCAA umbrella.

“A lot of it played out over Thanksgiving. We resisted any urge to bill during dinner,” David quipped.

(And if you’re wondering who has the higher billing rate, they are about “the same,” says one source.)

David represented Oregon State University in the lawsuit against its athletic conference, the Pac-12. Greg represented Washington State

University at the appellate level against the Pac-12.

The schools filed suit against the Pac-12 as co-plaintiffs after 10 of the 12 member schools of the Pac-12 announced in 2022 that they were leaving in 2024 for other conferences within the NCAA umbrella. Some of those schools wanted to retain board rights for their former conference, which would allow them to help steer the direction of the conference and its finances.

Oregon State and WSU, the only two schools remaining from the Pac-12 circa 2022, allege in their lawsuits that the schools that no longer had a vested interest in the conference should not be able to guide its course.

“The fact that we ended up working together was random,” David said. “Oregon State hired my firm, while Washington State hired Weil. It just happened that way.”

David had been involved with Oregon State from the start of the suit, but Greg didn’t get involved until the case reached the Washington State Supreme Court.

“A lot of funny emails back and forth, as we realized what was about to happen,” said Greg, the Weil partner. “As often happens with my work, I had to get up to speed quickly. There were a flurry of calls on strategy and background, and we [Greg and David] were having multiple work calls together on any given day.”

Greg and Weil partner Arianna Scavetti led the appellate briefing. Kecker, including David, handled the merits in the trial court and other aspects.

“It was really funny to be on constant calls with my twin brother and I had to resist the

urge to talk to him as my brother and relate to him more as a professional,” David said.

Siblings in big law firms are rare, and identical twins even more so. But there are some recent examples in the legal profession of siblings working together.

“The Naftalis twins, Josh and Ben, overlapped at SDNY [the Southern District of New York U.S. Attorney’s Office],” said Alisa Levin, a longtime legal recruiter at Greene-Levin-Snyder, but noted, “I have not come across siblings working together in Big Law.”

It must happen at some point, she acknowledged, but it may not be disclosed. When asked if she thought the sibling dynamic is often beneficial or potentially harmful to working together in law, Levin answered in a way that anyone with siblings can likely attest to.

“I am confident that some work together seamlessly and supportively, and others bring all sorts of baggage with them.”

Ultimately, the Silbert twins found the winning strategy.

#### The Conference of Champions

The Pac-12, or Pacific Athletic Conference, has historically been composed of a cast of between eight and 12 NCAA teams on the West Coast, with conference members in California (UCLA, USC, Stanford, Cal Berkeley), Oregon (Oregon and Oregon State), Arizona (Arizona and Arizona State), Washington (Washington and Washington State), Colorado (Colorado) and Utah (Utah) being the iteration in 2022 that started this brouhaha.

Last year, two of the conference’s more storied programs, UCLA and USC, decided

to bolt for another athletic conference, the Big 10.

Shortly after that, two more schools, the University of Washington and the University of Oregon (both football powers with national fan bases and robust alumni donor networks), also left for the Big 10. Then the floodgates opened.

All but two schools, Oregon State and Washington State, left the conference for others, leaving a once proud entity (they are called the Conference of Champions because combined their member schools have more NCAA sport titles than any other Power 5 conference) on the cusp of collapse.

There is a lot of money at stake in the conference. Television rights. Merchandizing. Bowl profit sharing. There are tens of millions of dollars in play for these items. The schools that were leaving the Pac-12 but had yet to do so wanted to retain rights to decisions made by the conference and to its cash.

That could be done by remaining on the conference board, which is what Washington University, essentially representing the Pac-12 conference in the litigation, wanted.

The Silbert brothers and their clients felt otherwise.

Oregon State and Washington State filed suit to stop the schools that were leaving from calling a board meeting. At that meeting, the schools that were leaving could, in theory, have voted to liquidate the Pac-12's remaining assets, such as shared funds, the remaining money on a TV and other financial concerns.

"It was a challenging case, and very fast-paced, as we had a TRO and a preliminary injunction," David said. "But on the appellate level, there were a lot of emergency briefs with many of our adversaries. The schools were all represented by UW. The Pac-12 was essentially also acting as an adversary to us."

Greg said that, unfortunately, sometimes when he gets involved in a case at the appellate level, there are messes to clean up from the prior litigation. Not the case this time.

"This was well-litigated below," Greg said. "Sometimes I am handed a hot mess and have to deal with it. Between November and December, there were a flurry of briefs, many of which had to be done in a day or less. David and I were jumping on calls often, with him the spokesperson for their side. We had the Washington State attorney general in there, all the schools, and it is David and I going back and forth on the issue. And he was incredibly sharp."

The duo was able to secure an objectively decisive victory in Washington Supreme Court and, as of now, Oregon State and WSU, the sole remaining members of the Pac-12 as it existed in 2023, will have control over what happens next. And the Pac-12 will have new member schools this year.

Along with the legal victory came other, smaller ones, including two brothers working successfully together. "It was sort of fun to write 'conference with Silbert' in my calendar," David said.