

Class Action Group Of The Year: Mayer Brown

By **Daniel Wilson**

Law360, Nashville (January 25, 2017, 9:57 PM EST) -- Its successful efforts to defend clients across a broad range of industries, headlined by its winning defense work in the U.S. Supreme Court's landscape-shifting Spokeo case, have earned Mayer Brown LLP's class action practice a spot in Law360's 2016 Practice Groups of the Year.

Prior to 2016, Mayer Brown already had a track record of success in high-profile class actions, perhaps none more prominent than its work for a unit of AT&T Inc. in the so-called Concepcion case. That landmark 2011 Supreme Court ruling upheld the use of class action waivers in arbitration agreements.

Archis Parasharami, co-chair of the firm's consumer litigation and class actions practice, described Concepcion as a "defining case" for the practice, noting the significant impact the ruling has had both on class action jurisprudence and on business practices since.

"Just [recently] the Supreme Court accepted petitions in three cases in which the ramifications of Concepcion are going to continue to be explored," Parasharami said. "That's a case that we saw as a game-changer at the time that we worked on it, and the past five and a half years have really underscored the truth of that."

The firm continued its class action success before the high court in 2016, helping people search engine company Spokeo Inc. win a 6-2 majority ruling in the Fair Credit Reporting Act case, again significantly reshaping the parameters of class action law.

In that May decision, the high court ruled that, as the firm's attorneys had argued, plaintiffs must show an actual concrete injury and not just a procedural violation to pursue statutory class action claims.

Parasharami, one of the Mayer Brown attorneys who worked on the case, said it had highlighted two of the firm's strengths in class action defense work: strategic thinking regarding the best legal approach to an issue — including the possibility of taking a relevant case all the way to the Supreme Court — as well as



the integration of class action, appellate and subject-matter experts to make sure that strategy is applied most effectively.

Although there is no magic answer for attracting clients, this sort of strategic and pragmatic planning, combined with a “result-oriented” and proactive stance toward tackling class actions, is a big draw for companies, according to Lucia Nale, who co-heads the firm’s consumer class action practice.

“One thing that really holds Mayer Brown out ... is that we’re not reactive, we’re proactive,” she said. “We think about the issues in advance and then help deal with them when they arise. I really think that is one of our hallmarks of our practice. ... Even early on we consider, ‘What kind of motion practices can you take from the get-go of a case in order to minimize the risks of class exposure?’”

The Spokeo ruling has since been cited in hundreds of court opinions, including several victories for Mayer Brown clients such as two October rulings dismissing class actions against ride-sharing service Lyft Inc. and CitiMortgage Inc., a unit of the financial services company, for failure to show any injury.

But the Spokeo case and those successor rulings are far from the only significant victories achieved by the firm’s class action team over the past year, with its attorneys helping clients in a broad range of industries successfully defend themselves in class actions brought under a wide range of laws.

For example, the firm prides itself on its work in class actions involving consumer financial issues, and helped to achieve winning outcomes for CitiMortgage in a number of other cases, for example successfully arguing in two suits involving the company that the plaintiffs’ circumstances were too disparate to warrant class certification.

Mayer Brown has also recently helped several food companies fight off cases, including first-of-their-kind rulings involving yogurt maker Chobani, accused of false “natural” food labeling, and food giant Nestle USA, accused of misleading customers over the use of partially hydrogenated oils in its Coffeemate coffee creamers.

In the Chobani action, the Ninth Circuit stayed the case in deference to the jurisdiction of the U.S. Food and Drug Administration, while a district court ruled the Nestle case was similarly preempted by FDA regulations.

The firm also helped companies from across a broad range of other industries to secure favorable rulings and settlements, from television service providers and tobacco companies to automakers and medical device makers, in cases involving allegations ranging from violations of the Telephone Consumer Protection Act to antitrust violations and product liability claims.

This broad range of work is carried out by a team of around 40 class attorneys, many in Chicago, with others in Texas and along both coasts. Bolstered by contributions from subject-matter experts, the firm typically works on between 50 and 100 class actions at any given time, according to consumer class action practice co-chair Debra Bogo-Ernst.

The group continues to grow and adapt as the types of class actions — and the industry sectors targeted in those class actions — change, Parasharami said.

“Increasingly, we’re doing more and more work with the telecommunications and technology sectors of the economy, [who are] driving the new economy,” he said. “What we’ve found is where large numbers of customers are is where the class action lawyers go when they file lawsuits, and so we’re adapting our skills ... and beating back new and different challenges.”

--Editing by Bruce Goldman.

All Content © 2003-2017, Portfolio Media, Inc.