

Rising Star: Mayer Brown's Paul Hughes

Law360 (July 31, 2018, 3:10 PM EDT) -- Mayer Brown's Paul Hughes made a splash this Supreme Court term by securing a years-in-the-making opinion that changed the rules for discharging debts and successfully campaigning to rectify a “drastic” Sixth Circuit ruling on malicious-prosecution immunity, earning a spot on Law360's list of Appellate Rising Stars for the second year in a row.

ONE OF HIS PROUDEST MOMENTS:

Hughes spent years just getting the dischargeability question at the heart of the bankruptcy case *Appling v. Lamar Archer & Cofrin* into the Supreme Court. The Atlanta law firm Lamar Archer & Cofrin LLP had gone after Chapter 7 debtor R. Scott Appling for about \$100,000 in unpaid legal fees, calling it nondischargeable because of false statements. The firm claimed Appling lied about his ability to repay it with money from his tax return. In situations like Appling's, debt can be deemed nondischargeable if a false statement is made — unless it's a false statement “respecting [the debtor's] financial condition,” putting the statement in a safe harbor. In recent years, Hughes noticed that multiple circuit courts had gotten hung up on defining “financial condition.” But Hughes persuaded first the Eleventh Circuit and then the Supreme Court to zero in on the word “respecting,” and to agree that a statement about even a single asset was one “respecting” the debtor's financial condition.

RISING ★ ★ ★ ★ ★ STAR



Paul Hughes
Mayer Brown

Age: 35

Home base: Washington, D.C.

Position: Partner

Law school: Yale Law School

First job after law school:

Clerk for Judge Diana Gribbon Motz of the U.S. Court of Appeals for the Fourth Circuit

"I found Mr. Appling's case after he had lost in the district court. And both the bankruptcy court and the district court had made what I thought was the same mistake as the Fifth and the Tenth Circuits," Hughes said.

"Scott and I then had a series of phone calls where I explained to him what I thought was the correct legal strategy to pursue this issue, that I thought we had a chance at the Eleventh Circuit and that I thought this was ultimately a case that could very well get resolved at the Supreme Court, but we were on a potentially long path," Hughes said. "He understood that entirely. He wanted to make sure that he won his case. It was just an enormously consequential case for his own personal financial affairs for, truly, the remainder of his life. So he was interested and decided to go ahead and pursue the legal strategy that I laid out. He was happy when we got the Eleventh Circuit win and was just over the moon when we got the final victory at the Supreme Court."

OTHER NOTABLE CASES:

Hughes also convinced the Supreme Court to summarily "grant, vacate and remand" — GVR — a Sixth Circuit opinion, which found that so-called Rehberg immunity for grand jury witnesses bars malicious-prosecution claims that follow indictments. Since nearly all criminal cases use indictments, the decision would effectively have ended the possibility of malicious-prosecution claims in the Sixth Circuit, according to Hughes. It was seen as an urgent civil rights setback.

The case was brought by Amy Sanders, a woman who was charged with drug violations based on false grand jury testimony by a police officer named Lamar Jones. The charges were later dropped. Hughes' GVR was a special one, because it didn't follow the usual pattern in which they're given out for cases nearly identical to one the Supreme Court has already taken up. Instead, in this case, Hughes went for a half-court shot by citing a recent case that didn't even address Rehberg immunity, called *Manuel v. City of Joliet*. There, the Supreme Court found that the "mere presence of a grand jury indictment" does not bar a Fourth Amendment claim, which Sanders had in her malicious-prosecution argument. So, Hughes told the Supreme Court that the Sixth Circuit's Sanders decision couldn't stand, and the Supreme Court categorically agreed. "Manuel v. City of Joliet didn't squarely address the Rehberg-immunity question. We nonetheless thought we could make a showing that what the Sixth Circuit did was in too substantial tension with Manuel: that the logic of Manuel really kicked the legs out from under the Sixth Circuit's decision in Sanders. And the Supreme Court agreed with us in issuing a GVR order. So that vacated what had been a very damaging decision for the civil rights community in the Sixth Circuit," Hughes said.

WHY HE CHOSE APPELLATE LAW:

Hughes went to Yale Law School and was a participant in its human rights clinic in his first year. But he made “what was, in reality, a very spontaneous decision” to change course and apply for a Supreme Court clinic.

“It turned out to be a complete turning point in my career. I was absolutely enthralled by the work that we did in the clinic and the skills and the practice of appellate litigation,” Hughes said.

Years later, he now co-directs that clinic, traveling to New Haven from Washington, D.C., with near loyalty-punch-card regularity.

WHAT MOTIVATES HIM:

Hughes said one of the most rewarding things about his job is the intensive game-planning that he and close colleague Michael Kimberly do. It takes work to uncover issues in the circuit courts that could potentially gain Supreme Court purchase, and it takes more work to nurture them, Hughes said. It's a strategy for which the institutional support of Mayer Brown is essential.

“There is a commitment to a long-term strategy of developing cases over several years. Clients often come to us not just for an individual case but because they see a broader issue in the law that they've asked us to come help change. So, as an appellate and Supreme Court practice at Mayer Brown, we very much pride ourselves on looking at the long-term, broader picture of a legal issue and delivering a solution to clients that will often span several years.”

— As told to Cara Salvatore

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2018 Rising Stars winners after reviewing more than 1,200 submissions. This interview has been edited and condensed.