

## Consumer Protection Group Of The Year: Mayer Brown

By **Sophia Morris**

*Law360 (January 28, 2019, 3:36 PM EST)* -- Mayer Brown LLP guided Zillow Group Inc. through a three-year Consumer Financial Protection Bureau investigation that ended favorably for the company, and secured significant wins for Nestle Purina and others in labeling and false advertising class actions, earning the firm a place among Law360's Consumer Protection Groups of the Year.

The firm's success in the consumer protection space can be attributed to the experience of the group's 80 attorneys, who are spread across the U.S. and able to represent clients in a variety of industries, including financial services and food and beverage, advising them on both litigation strategy and regulatory matters.

Partner Lauren Goldman told Law360 that the consumer protection practice really showcases the "close partnership between our litigators and our regulatory lawyers."

"It's great when a client can come to us and say, 'we want your super aggressive trial litigators, we want your appellate lawyers thinking about the legal issues, but we also want the benefit of your regulatory lawyers who have worked in all of the federal agencies that regulate our industry so that they can bring all of that experience to bear on our problems,'" she said.

Steve Kaplan, a partner and the co-leader of the firm's financial services regulatory & enforcement group echoed Goldman, saying Mayer Brown's focus on consumer financial products and services is something that sets it apart from its competitors.

"We not only have people that focus on consumer regulatory issues, but that we have individuals who are the former deputy enforcement director at the CFPB, as well as a former chief enforcement counsel at [the Office of Foreign Assets Control], and a former assistant general counsel at the Department of Housing and Urban Development," he said.

This wealth of regulatory knowledge combined with experienced litigators "allows us to provide not only good legal advice, but practical legal advice," he said.

That knowledge was on display in the firm's representation of Zillow Group as the real estate website



faced a three-year investigation from the CFPB into whether its co-marketing program violated the Real Estate Settlement Procedures Act. Zillow said in June that the agency would not be taking any enforcement actions against it over the practice of allowing agents and mortgage lenders to advertise together on the website and app.

The team that represented Zillow included regulatory specialists, an enforcement attorney and litigation department team members who work on consumer protection matters. Kaplan said it was "pretty remarkable" that the firm was able to convince the CFPB to drop the investigation and not pursue a settlement with Zillow. The issues at hand were cutting edge, given that the agency was not targeting a traditional service provider, he said.

The variety of cases that the consumer protection group takes on was on display in the firm's representation of Foster Poultry Farms. The firm secured a major win for the company in May when a California state court granted its bid for summary judgment in a proposed class action. The judge determined that the named plaintiff, who accused the company of misleading consumers by labeling its poultry as American Humane Certified, was improperly attempting to set her own standards for what is considered to be "humane" treatment of chickens.

"That was a really big win for the poultry industry and other industries that not only certify as humane, but certify as meeting other criteria," partner Carmine Zarlenga said.

He said the ruling, which is currently on appeal, "narrows the liability from what could be anything, to an objective, measurable, testable standard, and that's good, because most companies and even people want rules they can adhere to as opposed to rules that could mean anything."

In another win, the Sixth Circuit in May sided with Mayer Brown client Nestle Purina, affirming a lower court's dismissal of Wysong Corp.'s suit accusing the pet food giant of false advertising for featuring premium food photos on its pet food packaging. The suit was part of a trend of false advertising litigation targeted at pet food companies, and the appeals court's unanimous affirmation of the lower court's dismissal should put an end to similar labeling actions, Zarlenga said.

"I think we have put that issue to bed, and it was lingering," he said. "It was lingering in the sense that there were district court rulings in different parts of the country that were different. Now we have one circuit saying that this is not a claim, and I think that's going to probably end these kind of cases, at least for a while."

--Editing by Nicole Bleier.