

## MVP: Mayer Brown's Andrew Pincus

By Nadia Dreid

*Law360* (November 12, 2019, 2:47 PM EST) -- Andrew Pincus of Mayer Brown LLP has argued dozens of cases before the U.S. Supreme Court, and the justices handed him a big win this year with a ruling restricting classwide arbitration claims, earning him a spot as one of Law360's 2019 Appellate MVPs.

### ***HIS BIGGEST CHALLENGE THIS YEAR:***

Preparing to argue a case before the Supreme Court is no menial task, but the pressure is familiar to Pincus, who has found himself in that position nearly 30 times during his nearly four decades in the legal field.

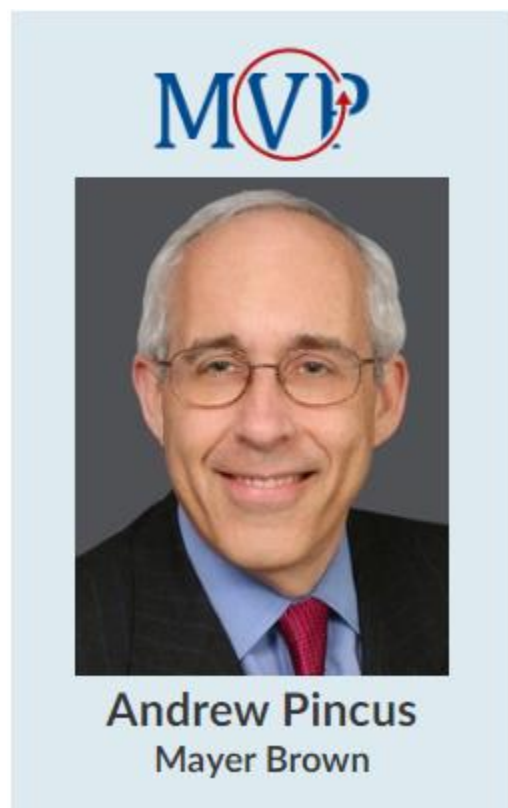
At the tail end of 2018, the seasoned litigator was presented with an even higher-stakes scenario: delivering two arguments before the high court in the same week.

"Being a litigator, you're asked to be the gladiator for your client, and that's an awesome responsibility," Pincus said.

In one case, Pincus needed to convince the court on behalf of his client Lamps Plus that unless an arbitration agreement expressly stated so, the Federal Arbitration Act did not allow one party to bring classwide claims into arbitration. In the other, the attorney was set to argue on behalf of Google that an \$8.5 million privacy deal that doled out funds to third parties instead of class members — known as a cy pres deal — was kosher.

So he developed a system to make sure he was prepared for both arguments.

"I sort of stepped back and figured that the way to do it was to prepare for the second one first and get all that under my belt, because that one would be further away in time, then turn to preparing for the first one," Pincus said. "Then use the day and a half in between to take another deep dive [on the second case]."



While the condensed timeline "definitely was one of the bigger challenges" that Pincus has encountered in his career, it all seemed to turn out well in the end, he said.

The justices sided with him in the Lamps Plus case, largely closing the door to classwide arbitration challenges unless expressly provided for in the parties' original agreement. And the court remanded the Google case back to the Ninth Circuit to decide the lingering issue of whether the class members had standing to sue at all.

#### ***HIS PROUDEST MOMENT THIS YEAR:***

Crafting an amicus brief on behalf of more than 100 companies to urge the Supreme Court not to overturn the Deferred Action for Childhood Arrivals program was definitely a highlight of Pincus' year, he said.

The companies — which included big names like Google, Amazon, Netflix and Facebook — told the high court that their businesses and the economy would take a hit if the justices were to unravel the protections allowing hundreds of thousands of immigrants who were brought into the country illegally as children to stay and work in America.

"This involved the lives of 750,000 actual people whose lives and ability to work and participate in society will be totally determined by what the Supreme Court does," Pincus said. "So being able to stand up and help bring the business community's perspective to that case made me feel very good."

#### ***WHY HE'S AN APPELLATE ATTORNEY:***

Pincus said he views each case as an intellectual puzzle that he needs to crack: which arguments to make, how to craft the best brief and how to pull all that work into the most compelling oral argument he can make.

"You've got precedent and you've got statutory language and you've got the different fact patterns that will emerge," Pincus said. "And your job is to take all of that and construct an argument that is persuasive and win."

With appellate law, an attorney has to make his or her case before multiple judges who may have different views of the law and different questions, adding an extra layer of complication to the puzzle that he already enjoys, Pincus said.

"And when you get to the Supreme Court, there's nine of them," he said.

#### ***HIS ADVICE FOR JUNIOR ATTORNEYS:***

Pincus' advice to young, up-and-coming attorneys is to seek out the most talented help they can get.

"Find a group of lawyers to work with who you think are really excellent and who will take the time to look at your work ... and talk to you about what makes a good brief or a good cross-examination," he said. "Find a place where more senior lawyers will take time to help you improve."

Those kinds of attorneys can be hard to come by in a profession with a lot of focus on the bottom line, he said, but young attorneys should make sure to grab the opportunity when they come in contact with those kinds of lawyers.

Young attorneys should also find ways to practice doing the kind of work they aspire to do, and they should work actively to get themselves into the courtroom or in charge of writing the brief on a case, Pincus said, even if it means taking on pro bono work to do it.

— *As told to Nadia Dreid*

*Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2019 MVP winners after reviewing nearly 900 submissions.*