

MVP: Mayer Brown's John Nadolenco

By Mike Curley

Law360 (September 19, 2022, 2:03 PM EDT) -- John Nadolenco of Mayer Brown LLP has helped get General Motors Co. wins in separate suits over privacy and defective air bags, and helped Waymo LLC keep its trade secrets under wraps following a public record request, earning a spot as one of Law360's 2022 Transportation MVPs.

HIS BIGGEST ACCOMPLISHMENT THIS YEAR:

Nadolenco told Law360 that securing a win for GM in a suit claiming its website's tracking of user activity violated California's privacy laws was a case that made him proud.

The proposed class action led by Dakotah Massie had alleged that GM's use of technology that tracked mouse movements, clicks and keystrokes on its website violated California's Invasion of Privacy Act, but a Delaware federal court dismissed the suit in February.

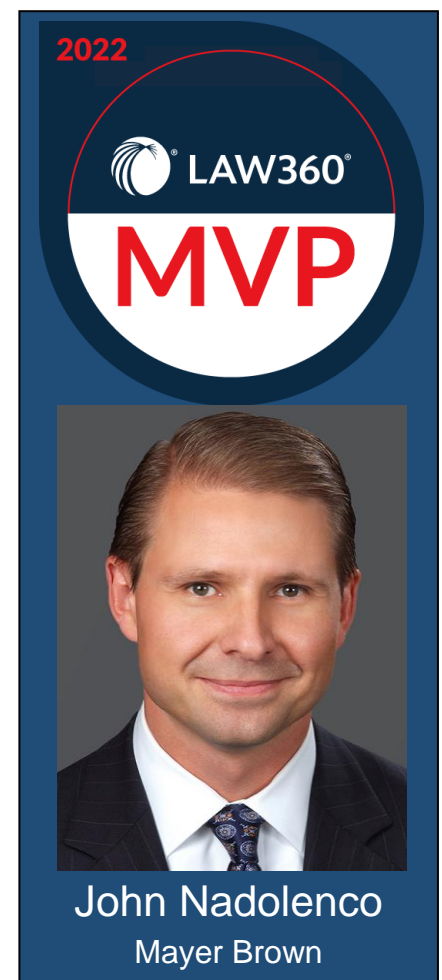
The case allowed Nadolenco to extend a legal concept he's been working on for over a decade. He noted that the issue also came up when Mayer Brown argued at the U.S. Supreme Court in *Spokeo Inc. v. Robins*, in which the court held that class action plaintiffs have to allege real-world injuries, rather than speculative ones.

In the Massie case, Nadolenco said he applied that precedent in a very different context and industry than the original to get the case thrown out.

"There are dozens and dozens of claims under this recording statute," he said. "I'm sure the legislature never really thought that it might be applied to keystrokes on an internet site. ... Certainly, applying the defense argument of Article III standing to that novel interpretation, I think was precedent-setting."

HIS BIGGEST CHALLENGE THIS YEAR:

Nadolenco said the same issue — convincing a judge that no concrete injury occurred — is always difficult, and another suit in which he represented GM, this time over allegations that an airbag indicator light in its vehicles was defective, posed such a challenge.



In that case, he said, putting what's really going on into a legal construct is critically important in determining whether there is really a potential claim and injury that deserves redress, or if the plaintiff is only speculating about theoretical harm.

In the air bag case, he said, he was able to show that, in the decade since the allegedly defective vehicles were on the market, the plaintiffs couldn't point to a single instance of the air bag failing, let alone injuries resulting from it.

"It was kind of painting a picture for the judge," he said. "It's been a decade since this air bag has been out there, and they can't point to a single instance. Are we really going to have a federal case over this?"

The court granted his motion to dismiss with prejudice in February.

HIS PROUDEST MOMENT:

Winning Waymo's case over its trade secrets was one of Nadolenco's proudest moments, he told Law360, saying it involved an issue that's not heavily litigated, so he was proud of being able to convince the judge to keep those secrets under wraps.

Waymo had sued to prevent the California Department of Motor Vehicles from publicizing certain information after the DMV had received a public records request related to the autonomous driving technology company's application for permits for the use of automated vehicles. Nadolenco said the information seeker did not cooperate with Waymo's attempt to narrow the scope of the request.

When the DMV said it wasn't taking a position, Waymo turned to the courts and convinced the judge to limit the documents that would be produced, Nadolenco said, calling the ruling a win for any companies thinking of using autonomous vehicles in California.

"It has to do with companies being candid with the DMV and sharing information with the DMV," he said. "And you don't want to chill that sharing of information with the DMV, which I think would have been the result if all the trade secrets can get produced under a public records act."

WHAT MOTIVATES HIM:

"I love trying to figure out ways to win cases that aren't cookie-cutter, that will win not just that particular case, but can perhaps take out a whole genre of cases," Nadolenco said.

He explained that's what the Spokeo case was about — not just protecting his client or the transportation industry, but nearly every industry that could face such no-injury class actions.

He said when he approaches a case, what motivates him is the possibility of leaving a significant impact on the legal landscape.

"I obviously want to win the case, but I want to think creatively," he said. "Is there a way to gut this kind of case?"

HIS ADVICE FOR JUNIOR ATTORNEYS:

Nadolenco said the best advice he can give young attorneys is to focus on an industry or area of law they're passionate about and that they can "throw themselves into."

Getting deeper into a particular area of an industry one has passion for works to an attorney's benefit,

he said, because then they can talk not just legal issues but also business issues with their clients, and give practical advice that is appreciated.

"That kind of dedication oftentimes can't really be faked — you either love what you do, or you don't love what you do," he said.

— *As told to Mike Curley.*

Law360's MVPs of the Year 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 2022 MVP winners after reviewing more than 900 submissions.

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