

Employment MVP: Mayer Brown's Robert Davis

By **Carolina Bolado**

Law360, New York (November 30, 2011, 8:26 PM ET) -- Mayer Brown LLP's Robert Davis led a team that in March won a jury verdict — a rarity in wage-and-hour disputes — for his client Quicken Loans Inc. in a Fair Labor Standards Act class action brought by former mortgage loan officers, earning him a spot on Law360's list of Employment MVPs.

The case, filed on behalf of about 350 former Quicken employees in Michigan and Ohio, was the first overtime pay dispute filed by mortgage loan officers to reach a jury.

Davis and his team not only saved Quicken millions of dollars, but they also set a precedent for other FLSA suits brought by mortgage loan officers, many of which were filed after the U.S. Department of Labor in March 2010 issued a new opinion reversing course and finding that mortgage loan officers were not overtime exempt. In the Quicken case, the DOL submitted an amicus brief clarifying that its new opinion applied only prospectively, and not retroactively.

So few of these wage-and-hour class actions ever go to trial because the stakes are so high that employers — even if they might think they have a good case — look to settle the suits early on, Davis said. But Quicken believed it had complied with the law and was "willing to go to the mat to show that," he said.

"We knew that this was going to trial if it had to go to trial," he said. "It's wonderful to have that crystallized focused sense, because it gives you an intensity and precision in your focus that you don't have if you are thinking about early ways to resolve the case."

The key to winning over the jury, according to Davis, was showing that mortgage loan officers are professionals with a great deal of responsibility.

In order to do this, Davis worked through the training program for mortgage loan officers at Quicken and then spent several days shadowing them on the job. He said the experience was invaluable and helped him show that the job is a complicated one.

"Somebody who's a good loan officer has to listen very carefully to people and their personal circumstances," he said. "There are all these variables that go into it, and then they have to figure out which among over 100 different mortgage programs might fit."

Davis got involved in employment law in 1988, when his boss — then-Secretary of Transportation Elizabeth Dole — was asked to be the secretary of labor under President George H. W. Bush. Davis had been working as Dole's chief of staff.

"She called me and said that she had just accepted [the president's] offer to become secretary of labor, and she asked me if I could take a couple of weeks off to help her get set up there," Davis said. "That turned into 2 1/2 years."

He was eventually named the solicitor at the DOL and became entranced with employment law.

"After that, there was little question that I wanted to devote the rest of my career to employment litigation," he said.

Davis moved to Mayer Brown in 1991 after leaving the DOL. Having worked exclusively out of the Washington office for 18 years, he now splits his time between the capital and New York.

He is currently defending Lockheed Martin Corp. in a \$100 million Employment Retirement Income Security Act class action and recently succeeded in getting the Seventh Circuit to vacate class certification in the case. Davis is also defending a very large financial services company in a DOL ERISA investigation that he hopes will be resolved soon.

So far, the Quicken victory stands as one of the proudest moments of his career. The court's judgment order in the Quicken case hangs prominently in his office, and he likes to point out the part that says "the plaintiffs take nothing."

"This one is right at the top for me," Davis said. "I think I've worked on over 100 wage-and-hour suits, so I've seen a lot of them, but to really go through the full tilt all the way through to the jury verdict ranks very high on my list."

--Additional reporting by Ryan Davis. Editing by Elizabeth Bowen.

All Content © 2003-2011, Portfolio Media, Inc.