

## Class Action Group Of The Year: Mayer Brown

By **Rae Ann Varona**

*Law360 (February 13, 2023, 2:02 PM EST)* -- Mayer Brown LLP stayed at the forefront of high-profile class action victories, including the \$24 million landmark settlement for the U.S. Women's National Soccer Team in their equal pay battle against the U.S. Soccer Federation, earning the firm a spot among Law360's 2022 Class Action Groups of the Year.

The settlement, reached Feb. 22, 2022, marked the culmination of the high-profile and longstanding equal pay dispute between members of the U.S. women's team and U.S. Soccer that sprung from a complaint with the U.S. Equal Employment Opportunity Commission in March 2016, fresh off their 2015 FIFA Women's World Cup win against Japan.

The players filed suit in a California federal court three years later before heading out for the 2019 World Cup — which they again won over the Netherlands — accusing U.S. Soccer of consistently paying their male counterparts more and giving them more perks like chartered flights, despite the fact that the women's team was performing better and winning world championships.

U.S. District Judge R. Gary Klausner in California, however, rejected their arguments and nixed the case in May 2020 over differences in the men's and women's contracts the players had agreed to.

But the women's team was able to turn the case around on appeal with help from Mayer Brown attorneys, who served as lead appellate co-counsel.

Mayer Brown partner Nicole Saharsky said the firm ended up with the case after being recommended to the team and ultimately getting tapped in after a couple interview rounds and late-night pitches over Zoom.

"To pitch for a case where you're talking to some of these sports stars and some of your idols, and be talking to them about legal strategy, was pretty interesting," Saharsky said.

As for finding a way to turn around the district court loss before the Ninth Circuit, Saharsky said they had a three-part strategy: making sure that it was clear as possible to the Court of Appeals that the district court got the law wrong; making sure the media, team sponsors and members of Congress also understood their arguments; and securing friends-of-the-court briefs to support the team.



Both the EEOC and the U.S. Men's National Soccer Team filed amici curiae briefs, which Saharsky said was "powerful."

The settlement came a couple of weeks before oral arguments were set to begin, and Saharsky said that while the players had hoped U.S. Soccer would realize the inequities and settle, they felt set on pursuing litigation if needed because they wanted recognition. They were happy when they found out the organization was serious about settling, she said.

"They really wanted to turn the page and have a more positive relationship with U.S. Soccer going forward," Saharsky said.

Describing the settlement as "path-breaking," Saharsky said the effects of the deal are already being felt around the world. Scotland's women's national soccer team launched legal action demanding equal pay in December, and in January, the Football Association of Wales reached an agreement to pay its men's and women's national teams equally.

But the settlement wasn't the only high-profile class action victory for Mayer Brown in 2022. Also in February, the firm served as lead counsel in getting a class action against General Motors Co. over its "session replay" software dismissed after a Delaware federal judge concluded that the plaintiffs didn't have an injury sufficient to confer standing. The judge had turned to a 2021 U.S. Supreme Court decision in *TransUnion v. Ramirez*, which made clearer what injuries should be considered concrete, following its landmark 2016 *Spokeo* decision.

Mayer Brown had represented *Spokeo* in the 2016 ruling and filed an amicus brief in the *TransUnion* case, both of which underscored the importance of having Article III standing and proving concrete harm to sue in federal court.

The *Spokeo* case kicked off an avalanche of litigation in federal court over standing, Archis Parasharami, co-leader of Mayer Brown's class action practice said.

And when it comes to cases like the GM suit that involve California's relatively new privacy laws, especially in the class action space, he said case law is still emerging. That includes those involving questions of standing.

Parasharami said that being at the forefront of the *Spokeo* case and others on Article III standing has put the firm in a great position to take on novel issues.

"The case involving GM and [plaintiff] Massie is a good example of that," Parasharami said. "We have taken our knowledge from cases like *Spokeo* and *TransUnion* and applied it in this new situation to help the federal court decide that the plaintiffs have not really been harmed within the meaning of the Constitution, and therefore could not sue."

Debra Bogo-Ernst, who leads the class action practice with Parasharami, added that many times, the firm's work in the class action space doesn't get reported on because they're often able to kick cases out at the pleading stage, or convince parties to drop the cases.

"We just try to take a novel approach on each and every class action we face to find the most efficient and positive solution for our clients at the earliest possible stage," Bogo-Ernst said.

One thing Mayer Brown does really well is "match up the right people for the right cases," according to Parasharami. He said the firm is lucky to have great resources who have covered different aspects of litigation.

"We've found that that tag team approach to our class action defense has been really effective for our clients," Parasharami said. "And it's also great for the firm because it builds the culture here, collaboration, and communication."

Saharsky, who co-heads Mayer Brown's Supreme Court and appellate practice, agreed.

"I really think our people are our strengths," Saharsky said. "I think what distinguishes Mayer Brown and the class actions practice is that we have great people, nice people, smart people, they put in the time, they do the work, and they make the arguments and that's why we get those successes."

Bogo-Ernst added that the fact that the firm and practice is "laser-focused" on diversity and inclusion also helps them succeed.

"One huge part of our class action practice is making sure we have the right opportunities for all our attorneys," Bogo-Ernst said. "Archis and I and other leaders of the group are laser-focused to make sure that in our class action cases, our diverse lawyers get those opportunities as well."

Parasharami chimed in and emphasized the fact the practice was led by diverse attorneys.

"I think it's reflected in our practice more broadly," Parasharami said.

--Editing by Andrew Cohen.