

MVP: Weil's David Singh

By Jack Rodgers

Law360 (October 5, 2023, 1:08 PM EDT) -- David Singh of Weil Gotshal & Manges LLP's complex commercial litigation practice often finds himself working to defend clients against large consumer classes. In April, Singh was co-lead counsel for Scripps Networks as the network fielded a consumer class action alleging it violated the Video Privacy Protection Act, earning him a spot as one of Law360's Class Action MVPs.

On his biggest accomplishments:

Singh has worked with a number of instantly recognizable global brands on a range of class action matters this past year. He's represented Burger King in defense of a consumer class action that alleged the Whopper franchisee had failed to disclose polyfluoroalkyl substances — known as forever substances — in its packaging, and Apple in the Eastern District of Texas, in a proposed class action that alleged the tech giant's iPhone 6 was sold with faulty batteries.

While Singh has achieved several victories this year — the Burger King and Apple disputes were voluntarily dismissed — picking one he was most proud of was a lot like "picking among favorite children in some respects," he said. But he noted that his co-lead role in defense of Scripps Networks' Video Privacy Protection Act case and his motion to dismiss victory were among his biggest accomplishments this year.

"The plaintiff bar came up with the theory, including in our case, that the use of a marketing pixel on a website to track a website user's interaction with the website, violates the statute," Singh said. "And we argued in a motion to dismiss that a plaintiff that is merely signed up for a newsletter on HGTV.com wasn't a consumer within the meaning of the statute, because the statute defines the consumer as somebody who purchased, rented or subscribed to video services, and somebody who merely signed up for a newsletter doesn't meet the definition."

Singh said he was particularly proud of that argument because of the number of class actions also alleging the network violated the VPPA. Additionally, Singh felt like generally, plaintiffs had the momentum on decisions on the early motions to dismiss that he had to help his client overcome, which made him even prouder of the success.



"The Scripps motion to dismiss order has also turned into a seminal case on whether a plaintiff is a consumer within the meaning of the Video Privacy Protection Act, and it imposed some pretty important judicial limitations on what we believe are improper attempts to expand the Video Privacy Protection Act beyond its intended bounds," Singh said.

On his biggest challenge:

Singh said over the past year, his biggest challenge has been keeping up with the amount of work involved in class actions. His practice has been like "drinking from a fire hose," Singh said.

"We have so many different class actions," he said.

Conversely, Singh said he was happy to have strong colleagues at Weil who helped lighten the load. He noted that his mentor when he first started at the firm, David L. Yohai, helped him overcome a lot of the workload challenges that had come up.

"He and I get to copilot a lot of these cases together, which to me is a lot of fun," he said.

On why he's a class action attorney:

Singh said his work in class action matters began during his first week at Weil. He was assigned to a large product class action involving a body armor defect.

That dispute turned into an "eight-year beast of litigation" that included consumer class actions and related litigation like state attorneys general actions and related class action matters, he said.

But he was hooked and was later put on a number of long-term care insurance class actions, he said. Later, he assisted in helping defend Exxon from a class that alleged there was less energy per gallon in gasoline in warmer regions in comparison to colder regions, and Singh said that "when you work on three of something you can start to say you have some expertise."

"I started very early in my career getting a lot of different class action experience, and I think I ran with it over the years, and it's an expertise I've tried to build out," he said.

For Singh, class action litigation aligns with his interests and aptitudes, and he described himself as a "class action nerd."

"I love learning about the law, and class actions is one of those areas where the law keeps evolving," Singh said. "If you stopped learning about class actions 10 years ago then you haven't been paying attention."

Singh said he has fun with his practice, which gives him the opportunity to be a student of law, continuing to learn about an ever-changing industry. He also enjoys creating arguments, a huge part of class action litigation that involves coming up with a motion to dismiss, Singh said.

The procedural maneuvering involved in the work and figuring out tactics behind when counsel should move to dismiss, or planning that motion to dismiss argument to help set up later arguments, are all part of the fun, he said.

"The other thing I would say is I feel absolutely blessed that I get to practice class action litigation in

somewhat of an optimal setting in that Weil, we're considered a market leader for class actions," Singh said.

His advice to younger class action attorneys:

Singh's advice to young attorneys who find themselves enamored with class action law is to keep being a student of the law. Class action attorneys find themselves continually studying decisions and opinions on disputes, and since the laws are always evolving, it's important to stay up to date, he said.

"The plaintiff bar is incredibly nimble," Singh said. "Just a few years ago, defendants were arguing that arbitration provisions banned class actions, and how has the plaintiff bar responded? They've responded with mass arbitration and the like. But that's kind of the pendulum that is class action litigation. The defense bar develops a new defense. The plaintiff bar, which is incredibly creative, develops an approach for dealing with the defendant's latest argument."

In general, Singh said young attorneys should "make a habit of saying yes" to new opportunities.

"Life won't always present opportunities at the most convenient time," Singh said. "You may be somewhat busy with other matters, you may not want to take on a grueling additional matter, but treat everything as an opportunity and try and say yes most of the time."

--As told to Jack Rodgers

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