

MVP: Sheppard Mullin's Craig Cardon

Law360 (December 10, 2018, 3:05 PM EST) -- Craig Cardon of Sheppard Mullin Richter & Hampton LLP has spent his year serving as Sonic Drive-In's lead counsel in multidistrict litigation over the fast food chain's 2017 data breach and working to bring a nearly decade-old data suit against Williams Sonoma to a close, earning him a spot as one of Law360's 2018 Retail & E-Commerce MVPs.

HIS BIGGEST ACCOMPLISHMENT THIS YEAR:

In March, Cardon and his team won the decertification of a nearly decade-old data collection class action against Williams-Sonoma Inc. in a California court after spending "eight years breaking the thing down piece by piece," he said. The data collection lawsuit accused the kitchenware purveyor of illegally collecting customers' ZIP codes when they made a purchase with a card and using that information to find their home addresses and send them marketing materials.

In the last decade, the suit has been killed and revived and made its way through several courts. It came before the California Supreme Court in 2011, which found that ZIP codes constituted personal identification information under state law and sent the case back down to state court. Cardon's team prevailed in a bifurcated trial, he said, then moved for decertification.

The decision granting decertification is now before a California appeals court, but after nearly a decade on the case, having the motion granted felt like a success and finally "seeing the effects of having long-term strategy," he said.

"There were pitfalls along the way, but there was a methodical, longer-term strategy taking it apart piece by piece," he said.

HIS BIGGEST CHALLENGE THIS YEAR:

For Cardon, the most challenging part of his job stays the same year after year, and that's telling a story



“with one arm tied behind your back.”

Since he normally represents retail companies against consumer suits and enforcement actions, by the time Cardon gets the chance to start telling his client’s side of the story, the plaintiffs already have a head start, he said. They have told their story in a complaint and perhaps a press release. The first chance he gets is in a motion to dismiss, but by then, all he is allowed to do is respond to the allegations, he said.

“A lot of lawyers forget, part of our role is to tell a story,” Cardon said. “But by the time we get to start telling our story, the initial narrative has always been set. That’s the intellectual challenge, telling a story when you started out a few steps behind the other side.”

WHAT MOTIVATES HIM:

Working to make small, incremental changes in the law through his work in the courtroom is a motivator, Cardon said, as is fighting back against the perception that companies are always out to get consumers.

“What I’m doing is countering a narrative that’s been put out there about the big bad company,” he said. “It’s really easy to assume the worst when you’ve got someone who has been sued and they’re the larger party.”

But over time, things can change, Cardon said.

“Nudge the law,” he said. “Not changing it overnight, but a day at a time, a case at a time.”

HIS ADVICE FOR JUNIOR ATTORNEYS:

Cardon’s main philosophy as a lawyer is to always try to be the best part of his client’s day, and he said that’s what he suggests to any attorney trying to get a foothold in the retail and e-commerce sphere.

“How do you add value? Put yourself in the in-house lawyer’s shoes. How can you make their life better and easier? Sometimes that’s just doing your job. But always putting yourself in their shoes,” he said.

And Cardon said he wouldn’t want industry pessimists to discourage up-and-coming retail and e-commerce attorneys from the practice area out of fears about work drying up.

“Ten years ago people were saying, ‘Retail is dead.’ I said, ‘It’s not dead, just changing,’” Cardon said, adding that time has proved him right. “This is an incredibly exciting time to be in retail and e-commerce, as the industry changes.”

— *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 2018 MVP winners after reviewing nearly 1,000 submissions.

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