

Cybersecurity & Privacy Group Of The Year: Sheppard Mullin

By Kaitlyn Burton

Law360 (January 28, 2019, 11:27 AM EST) -- Sheppard Mullin Richter & Hampton LLP's standout cybersecurity and privacy team notched big wins this past year as the firm helped Sonic Drive-In navigate multidistrict litigation over a data breach and negotiated a \$4.3 million settlement for the fast food chain, landing it among Law360's Practice Groups of the Year.

The team is made up of attorneys who are both legal experts and technology whizzes, which sets it apart from the crowd, according to practice group co-leader Craig Cardon.

Cardon pointed to the firm's work for Sonic Corp. as one such example of the firm's tech know-how.

Fellow practice head Liisa Thomas "had done all of the incident response preparation work before anything ever happened, had worked with the company to get great structures in place, handled the breach response, and then once the litigation was filed I started handling the litigation," he said. "It was a simple handoff because we both understood the technology."

"We knew the systems that were involved because we try to keep educating ourselves," Cardon added.

In October 2018, Sonic customers in multidistrict litigation over the restaurant's credit card data breach asked an Ohio federal judge to approve a \$4.3 million settlement.

Media reports had revealed more than a year earlier that hackers were selling credit and debit card numbers in an online marketplace. Sonic said it was notified of unusual activity by a credit card processor, spurring an internal investigation and a forensic audit into the cause.

Sonic said it promptly notified federal authorities and the public, and at the time it offered affected customers two years of free fraud detection and identity theft protection.

The hack came after other massive data breaches at restaurant chains Arby's and Wendy's, along with credit bureau Equifax and the U.S. Securities and Exchange Commission.

Cardon said the settlement went a long way toward addressing customer concerns, adding that the firm tried to create "an incredibly user friendly experience where there's just two tiers."

"You either shopped there and you get X or you shopped and you had some issue with your credit card



and you get Y,” he said. “We want you to have as easy an experience claiming your portion of the settlement as you do ordering a burger and shake from the carhop.”

The settlement is still awaiting final approval.

Cardon also attributes the firm’s recent success in representing Jenny Craig to understanding the technology involved in the case.

Jenny Craig Inc. agreed in August 2018 to shell out \$3 million to end the putative class action alleging that the weight-loss company sent unwanted text messages in violation of the Telephone Consumer Protection Act, according to a filing in Florida federal court.

The proposed national class included over 600,000 people who, since May 2014, received a text message from Jenny Craig without their express written consent.

The case “was able to settle because of [partner Shannon Petersen’s] expertise with the technology,” Cardon said. “That case could have gone on for years but for his understanding of it, being able to explain that to the other side in court and bring everybody together into a settlement.”

Petersen co-leads the firm’s TCPA and consumer class action defense teams and is the managing partner of the firm's San Diego office.

Sheppard Mullin also scored a March 2018 ruling decertifying a class in a data collection lawsuit against Williams-Sonoma. Cardon said the case, which has been going on for almost 10 years, was one of the first privacy cases in California.

Williams-Sonoma Inc. was accused of illegally collecting customers’ ZIP codes when they made a purchase with a card and using that information to send them marketing materials at home.

“It’s been nice to watch the law evolve and get more specific so that everybody knows where the green areas are and where the red areas are,” Cardon said, noting that “it feels like the right result occurred with a company that was always trying to do the right thing.”

The decision granting decertification is now before a California appeals court.

Sheppard Mullin has about 45 attorneys around the world in its cybersecurity and privacy practice, according to Cardon. The group’s primary offices are located in San Francisco, Century City, Chicago, New York, Washington, Brussels and London.

Cardon said he’s focused on building a team “of all the best position players that are available.”

“We’re not looking for the home run champion. You’re looking for the best second basemen, the best pitcher, the best catcher,” he said. “And then making sure they’re doing what they’re the best at.”

The firm has some 875 attorneys overall, with 16 offices in North America, Europe and Asia.

--Additional reporting by Christopher Crosby, Bonnie Eslinger and Nadia Dreid. Editing by Alyssa Miller.