

Rising Star: Covington's Andrew Soukup

By Christopher Cole

Law360 (September 23, 2019, 3:16 PM EDT) -- Andrew Soukup of Covington & Burling LLP has seen big wins in his class action practice, and in one notable case secured a crucial court finding that mortgage servicers can charge borrowers for property inspections, landing the Washington, D.C.-based attorney a spot among the class action law practitioners under age 40 honored by Law360 as Rising Stars.

HIS BIGGEST CASE:

Soukup landed a major victory for the mortgage lending sector by successfully defending JPMorgan Chase from multiple nationwide class actions trying to stop the bank from charging borrowers for inspections of delinquent properties.

Acting as lead counsel, Soukup and his team convinced a California federal judge to reject class certification in the suits, which claimed the practice amounted to a breach of contract, fraud, and violations of RICO and various state statutes.

Soukup said it was a key legal achievement, because the inspections are an important tool mortgage servicers use to protect the property that secures a mortgage, and it was a huge deal for the industry to be able to continue conducting the inspections.

"Ultimately that might be the only way that a lender recovers funds," Soukup said. Additionally, he said, "they're a great tool to guard against blight."

It wasn't an easy win — the case went on to appeal, and it spawned what he described as copycat lawsuits concerning the same issue. "We were up against very capable and very motivated counsel," he said.

"The case had many challenges," he noted, and "winning that case also wasn't the end of the road."

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STAR



Andrew Soukup
Covington & Burling

Age: 37

Home base: Washington, D.C.

Position: Partner

Law school: Notre Dame Law School

First job after law school: Law clerk for U.S. Circuit Judge Diane S. Sykes, U.S. Court of Appeals for the Seventh Circuit

HIS PROUDEST MOMENT:

While he said it's "hard to pick one or two," Soukup said one of his best moments was when he persuaded a federal judge to toss a class action over what the plaintiff argued were unauthorized credit card charges.

In that case, he was also acting as lead counsel for JPMorgan, one of several defendants accused of committing fraud and violating a state statute by failing to adequately protect customers from unauthorized charges.

The suit claimed JPMorgan should have done more to protect a consumer from charges that she claimed she never authorized, and Soukup worked to oppose the plaintiff's class certification motion and filed an early summary judgment motion — something of a tough sell at that stage. The judge favored the latter, throwing out the claims against JPMorgan while other parties remained in the case.

Covington said the case presented the novel question of whether a state law could be used to dictate what documents federally chartered financial institutions needed to retain from customers to deem credit transactions authorized — in this case, a local requirement to retain a signed receipt for any credit transaction.

But the judge sided with Soukup's argument that the National Bank Act preempted imposing such requirements on national banks.

"We didn't think a class could or should be certified," Soukup said, adding that the complaint briefs didn't have much "meat on their bones" and he was "grateful that the judge agreed with us."

WHY HE'S A CLASS ACTION LAWYER:

Soukup, the co-chair of the firm's class action litigation practice group, said he was always interested in litigation. His career started in big litigation, and "since then, I've really just grown to relish the opportunity and experience that class action litigation provides."

Soukup, who also does pro bono work, said he enjoys developing "the skills and strategies needed to litigate a case through class certification."

"You have a lot of room for creativity," he said.

CHANGES ON THE CLASS ACTION HORIZON:

Soukup identified two overarching trends in the class action practice area, and one of them is largely procedural: cases could play out more often in novel ways.

"Judges are increasingly recognizing that there are many different ways to manage a class action," he said, predicting that with dockets gummed up with large suits, the courts will increasingly and creatively look to clear cases as quickly as possible.

Soukup also said he thinks that from a substantive perspective, there will be many new and different kinds of cases coming out of rapidly developing technology, such as blockchain and the use of artificial intelligence, and using consumers' information in "new and interesting ways."

"We're already seeing a rise in legislative and regulatory activity in response to the changes," he said, and that means plenty of litigation will follow in the coming years.

"It's an exciting time to be a class action lawyer," he said.

— *As told to Christopher Cole*

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2019 Rising Stars winners after reviewing more than 1,300 submissions. Attorneys had to be under 40 years old as of April 30, 2019, in order to be considered for this year's award. This interview has been edited and condensed.