

MVP: Covington & Burling's Henry Liu

By Alyssa Aquino

Law360 (September 9, 2022, 2:02 PM EDT) -- Covington & Burling LLP's Henry Liu helped secure the dismissal of Congolese families' child labor claims against Apple Inc. and the tossing of allegations that JPMorgan Chase & Co. conspired with other big banks to manipulate the \$14 trillion U.S. Treasury market, earning him a spot among Law360's 2022 Class Action MVPs.

WHY HE IS A CLASS ACTION ATTORNEY:

Liu jumped into the "high-stakes" world of class action litigation thanks to a Covington partner he considers a mentor, Robert Wick. Liu worked with Wick on a few class actions and learned to love the field, he said.

Class actions, Liu said, offer a perfect mix of high-stakes appellate and high-stakes trial litigation. And to tackle a class action, attorneys must do their best to boil down complicated issues for judges and clerks.

"Class actions can offer fast-moving intellectual challenges. You oftentimes have to navigate quickly to deal with uncooperative witnesses, difficult experts, evidentiary challenges and, of course, preparing for trial as well," he said. "Having that blend is what makes me really love class action work and why the practice works for me."

NOTABLE CASES HE HAS WORKED ON:

Liu co-led the Covington team that freed Apple from a lawsuit brought by the parents of Congolese children who were injured or killed while mining the cobalt used in laptops, cellphones and electric cars. Though more than a dozen anonymous people from the Democratic Republic of Congo detailed "tragic events" in their lawsuit, a Washington, D.C., judge ruled in November 2021 that they hadn't connected that harm to Apple.

Liu also helped steer the Covington team that successfully defended the Belgian-Swiss cocoa producer Barry Callebaut USA LLC from similar trafficking claims. Eight Mali nationals had attempted to hold Barry Callebaut, Hershey Co. and other major chocolate producers liable for forced child labor in cocoa farms along the Ivory Coast. Similar to the Apple case, a Washington, D.C., judge dismissed the Barry Callebaut



case in June, finding that the plaintiffs hadn't traced their injuries to the companies.

Liu said he had spent a lot of time with Barry Callebaut to understand the resources it had dedicated to addressing potential labor issues in its supply chain.

"You can feel confident that it is in fact doing the right thing, and that ultimately when plaintiffs are trying to state a claim, you have confidence that the court will see it the right way," he said.

WHAT HE'S DONE FOR JPMORGAN:

Liu has helped steer JPMorgan's defense against five sprawling antitrust lawsuits and, in the past year, resolved two cases involving U.S. Treasuries and aluminum trading and warehousing.

In March 2022, a New York federal judge dismissed securities traders' long-running claims that JPMorgan, Goldman Sachs and other Wall Street giants conspired to manipulate the \$14 trillion market for securities issued by the U.S. Treasury Department. Since filing suit in 2015, the plaintiffs have yet to put forward "smoking gun" evidence of the alleged scheme, the judge said.

Three months later, a New York court blessed a deal allowing JPMorgan to exit claims that big banks conspired with metal warehouses to "squeeze up the premiums" for the commodity. Details of the settlement aren't publicly available, but Liu said the deal tied up the remaining case in the aluminum warehousing multidistrict litigation, an MDL that went up to the Second Circuit several times.

It was "gratifying" to finally end that litigation, Liu said.

HIS BIGGEST ACCOMPLISHMENT OVER THE PAST YEAR:

Though Liu scored impressive wins for JPMorgan and Apple over the past year, he said one of his "smallest matters" stands out in his mind as his biggest accomplishment: a dispute between Procter & Gamble and buyers of its charcoal-infused Crest whitening toothpaste.

A toothpaste buyer, looking to represent a proposed buyers class, accused P&G of selling Crest 3D Whitening toothpaste containing charcoal that was purportedly harmful to teeth enamel. U.S. District Judge Naomi Reice Buchwald of New York's Southern District tossed the allegations with prejudice, noting that one of the documents the buyer said supported her claims had in fact contradicted them.

Liu said his team faced an uphill battle obtaining that dismissal order, as there was another New York judge who refused to dismiss a similar case. The team spent a lot of time thinking out how to differentiate the cases to win that result, he said.

"Obviously, when you have another case that you have to distinguish, it feels like an uphill battle, but the team didn't give up," he said.

HIS ADVICE FOR JUNIOR ATTORNEYS:

For Liu, young lawyers should learn the importance of owning up to their mistakes and going out of their way to disclose them. That type of honesty makes one a better attorney and is often valued by senior lawyers, Liu said.

"Team members who take responsibility for their mistakes, as opposed to the wins — I think that demonstrates a tremendous amount of integrity, gives them credibility, and makes me want to work with them longer term," he said.

Liu, however, declined to disclose an instance in which he practiced what he preached, citing client confidentiality issues. But he said a willingness to admit errors has paid off.

"I will say that is a lesson that my mentors instilled in me at a very early age. I think it's one that I found repeatedly over my career to pay dividends, both internally at the firm, but also with clients, with judges, with juries."

— *As told to Alyssa Aquino.*

Law360's MVPs of the Year 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 2022 MVP winners after reviewing more than 900 submissions.