

Telecom Group Of The Year: Mayer Brown

By Kelly Lienhard

Law360 (February 14, 2023, 2:02 PM EST) -- Mayer Brown LLP had a banner year securing wins for some of the world's largest telecommunications companies, including AT&T, Frontier Communications, DirecTV and Suddenlink, in matters including False Claims Act disputes and class actions, landing the firm a spot as one of Law360's 2022 Telecommunications Groups of the Year.

With a group of more than 100 attorneys that spans North America, South America, Asia and Europe, Mayer Brown's telecommunications team is a major part of the firm's overall focus, combining the skills of regulatory, trial and appellate litigators to take on a variety of cases.

Matthew Ingber, a litigation attorney representing telecom companies and a three-time Law360 MVP, said the integration of regulatory lawyers, trial litigators and appellate litigators is part of what makes Mayer Brown so successful.

"Oftentimes, there's a regulatory angle and there could be a trial court litigation piece to it, and with the trial court piece, you always have appellate considerations to take into account as well," Ingber said. "We've done a nice job as a firm and as a group within our firm to work efficiently and seamlessly together — and also with our clients."

Regulatory, trial and appellate expertise collided last April, when Mayer Brown helped AT&T obtain summary judgment in the first case to challenge the Federal Communications Commission E-Rate program's "lowest corresponding price" requirement. The False Claims Act dispute between AT&T subsidiary Wisconsin Bell and a qui tam challenger concerned accusations that the company collected subsidies under the federal program after falsely claiming it had been providing schools and libraries with its services at the same, low rates it charged similarly situated customers.

The firm convinced the Wisconsin federal court that there was no proof the telecom giant made any false claims or purposely overcharged schools or libraries.

Ethan Hastert, an attorney at Mayer Brown who worked on the litigation, told Law360 the case involved a few significant issues.

"One, there's an unsettled circuit split in the False Claims Act world that is implicated by that case," Hastert said. "Then the E-Rate program is a somewhat low-litigated area in the telecom world."



Mayer Brown also had a series of successes in litigation on behalf of Frontier Communications Corp., along with some of the company's individual board members, after the company was accused of providing falsified information during its acquisition of Verizon accounts in California, Texas and Florida, allegedly causing its stock to fall more than \$1 billion.

The firm scored its first victory when the U.S. District Court for the District of Connecticut ruled to dismiss the case, and its second when it agreed to settle the case on "very favorable terms" for \$15.5 million in April after the decision was appealed, the firm said. The settlement was approved by the court in summer 2022.

Ingber told Law360 that high-stakes cases like the Frontier matter are typically difficult to win at the motion to dismiss stage.

"There was a lot of money at stake," Ingber said. "There were reputations at stake for a company that really hadn't faced anything like this previously, so we were really delighted with the win at the motion to dismiss stage. It was the right result."

In addition to its accomplishments representing AT&T and Frontier, Mayer Brown in late 2021 secured resolution through arbitration for Suddenlink and, in a separate case, for AT&T.

In both cases, the plaintiffs were seeking public injunctive relief under California law, but both cases eventually ended in arbitration when the courts found their requested injunctions didn't count as "public," according to the firm.

In the Suddenlink case, the court rejected claims about flaws in the speed and reliability of Suddenlink's internet service in California and forced the dispute to arbitration.

In the AT&T case, a lower court ruled that the plaintiff could escape the arbitration agreement under the state law prohibiting waivers of public injunctions, but the Ninth Circuit rejected this finding on appeal, ruling the requested injunction would not benefit the general public because individuals could not be subject to the allegedly improper practice unless they were first AT&T customers.

Partner Evan Tager told Law360 that Mayer Brown's work in arbitration has led to many companies writing up arbitration agreements that prevent class actions in the future.

"Our firm has been heavily involved in the development of arbitration agreements that waive class actions and getting them enforced in court," Tager said.

The firm also secured a victory in November 2021 for DirecTV in a New York federal court, winning a summary judgment in an indemnification dispute lasting 14 years in which the Indian government claimed that DirecTV's former Indian subsidiary owed approximately \$94 million in license fees and penalties to the Indian Department of Telecommunications.

The court sided with Mayer Brown and DirecTV, finding the Indian license fees did not invoke the at-issue indemnification provisions and dropping the fees. The case has since been appealed, and arguments are scheduled for Feb. 23.

As for the future, Mayer Brown attorney Archis Parasharami said it's difficult to say where the telecom

sector is headed, but he does know that technology is constantly evolving. He pointed to current improvements in broadband and the expanded use of 5G locations as the types of innovations that will "inevitably" be accompanied by future litigation.

"It's hard to predict exactly where telecom is going, except there will be progress," Parasharami said. "[What] I can confidently predict is that every time there's an innovation in the telecom space, it seems to come with litigation."

--Additional reporting by Emilie Ruscoe, Nadia Dreid and Jess Krochtengel. Editing by Daniel King.