

Class Action Group Of The Year: Weil

By Alyssa Aquino

Law360 (February 7, 2020, 3:50 PM EST) -- Weil Gotshal & Manges LLP negotiated a \$120 million deal ending claims related to the Allen Stanford Ponzi scheme and scored a rare en banc victory in the Eleventh Circuit for insurers accused of improperly lowering car repair costs, earning the firm a spot among Law360's 2019 Class Action Groups of the Year.

Weil defended insurance broker Willis Towers Watson PLC from claims it helped Stanford, who was convicted for heading up the second largest Ponzi scheme in U.S. history, buy insurance policies that were hyped to investors. The firm made a splash within the class action world when a Fifth Circuit panel in July affirmed a settlement and issued a contentious order blocking future Stanford-related litigation against Willis.

Jonathan Polkes, co-chair of Weil's global litigation department, said the firm had used creative strategies to pursue the order early on in the case because several parties had broken off from the official plaintiffs' group to pursue their own claims against Willis.

"It's going to make settlements in multidistrict litigation and complicated class actions much more viable, and it's going to make it harder for classes to opt-out and not play along with the group," he said. "If we let every splinter group out there just blow up a settlement that 70, 80, 90% of the people involved agree with, we're never going to get anywhere."

Weil further made its mark convincing the full Eleventh Circuit to uphold the permanent dismissal of claims from auto body shops that Farmers Insurance Group and other insurers schemed to lower car repair costs. The 8-1 ruling in favor of the insurers reversed a three-judge panel's 2016 decision.

The firm argued in its petition for the full court rehearing that allowing the 2016 panel decision to stand would open the door for improper "shotgun" antitrust pleadings instead of particularized allegations of wrongdoing.

"[It] would have reshaped what was necessary for a pleading against the whole [auto body insurance industry] and other industries too," said David Yohai, a partner in the firm's complex commercial litigation practice.



Weil also defeated a multistate class action in 2019 on behalf of Dometic Group, which was accused of selling faulty gas absorption refrigerators.

After a buyer launched a proposed class action in a California federal court, Ed Soto, the managing partner at Weil's Miami outpost, said he "blindly" wrote Dometic's general counsel to advise that there was a better shot of defeating the litigation if the company focused on an anticipated Florida action that came later.

Dometic wasn't a client of Weil's at the time, and Soto said he didn't even know the company's general counsel's name. But from a defendant's standpoint, class action law in the Eleventh Circuit looks better, Soto said, noting that the appeals court has set a higher bar to merit class treatment.

"It's that kind of knowledge of the distinctions of different circuits regarding what they're doing with classes that made a difference in this case," he told Law360.

Swayed, Dometic hired Weil to defend against the Florida case. The gambit worked. In July, a Florida federal judge refused to certify the class action, finding that class members couldn't readily be identified — an issue that the Ninth Circuit has not yet ruled on, Soto said.

Yohai credits the firm's class action victories to the team's experience representing clients from a range of industries.

"That's what separates us from our peers — [we practice in] not any one industry but rather across industries. I think that sends the message that we're really good at this and we can do this in different spaces," he said.

The firm plans to continue investing in its class action practice by promoting and hiring attorneys with appellate experience, said David Lender, co-chair of Weil's global litigation department.

"Having additional firepower in the appellate side just helps us," Lender said, noting there are a number of unresolved appellate issues that arise in the class action space.

"I think we're really set up nicely right now based on the investments we've made to hopefully be a dominant player in the space," he said.

--Editing by Bruce Goldman.