

MVP: White & Case's Eric Grannon

By Sue Reisinger

Law360 (September 15, 2022, 2:02 PM EDT) -- Eric Grannon led a White & Case LLP team in opposing certification in a multibillion-dollar securities class action against Toshiba, earning him a spot among Law360's 2022 Class Action MVPs.

HIS BIGGEST ACCOMPLISHMENT THIS YEAR:

In January, in a suit against Toshiba Corp., Grannon led the White & Case legal team in defeating the class certification bid of Robbins Geller Rudman & Dowd LLP, one of the leading plaintiffs class action securities firms in the country.

The case, *Mark Stoyas v. Toshiba Corp.* in the U.S. District Court for the Central District of California, was Grannon's first time as lead on a putative class action securities matter, and in fact was his first time working on a securities matter at all.

Grannon convinced the court that a proposed class of U.S. American Depositary Receipt holders could not proceed because the proposed named plaintiff for that class did not purchase its Toshiba securities in the United States as required under the U.S. Securities Exchange Act. An ADR is a U.S. bank-issued certificate representing shares in a foreign company for trade on American stock exchanges.

The case was especially important, Grannon said, "because the plaintiffs firm openly marketed that they wanted to bring cases against non-U.S. companies with no securities issued in the U.S. Our win frankly provides an important defense precedent against that sort of new business model for the plaintiffs bar."

HIS BIGGEST CHALLENGE IN THE PAST YEAR:

One of the biggest challenges, Grannon said, was piecing together chat messages and financial records from nonparties in the Toshiba case to disprove plaintiffs' allegation that they had purchased the client's securities in the U.S.

"I read more chat messages about the underlying transactions than I ever thought I could," he said, from different sources in different times zones, using lots of shorthand and industry jargon.

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Eric Grannon
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But without this nonparty discovery, he added, there would have been gaps in the transactional information.

WHY HE IS A CLASS ACTION ATTORNEY:

Because the plaintiffs bar in the securities and antitrust areas tries to bring most cases as class actions, Grannon said.

"To be an effective defense counsel in those areas," he said, "you have to stay on top of all the legal developments. When you work as a corporate defense lawyer, you have no choice but to become a class action defense lawyer as well."

WHAT MOTIVATES HIM:

Grannon said the plaintiffs bar "counts on the sort of in terrorem effect of having the class certified." He enjoys finding a way to minimize or eliminate that intimidation by "flipping the tables" on them.

"When plaintiff's counsel says to you that they've never gotten a [discovery] request like this before, you know you are on right track," he said.

HIS ADVICE FOR JUNIOR ATTORNEYS:

Class certification should never be taken for granted, he said.

"The trend right now is for courts to closely scrutinize class certification on a more practical level," he said. While other parts of a case get more attention from lawyers, the certification requirements require thorough but tedious scrutiny.

"It's a slog," Grannon said, "but a junior associate can take ownership of that and make it their own."

OTHER NOTABLE CASES HE HAS WORKED ON:

Grannon led a team securing the dismissal of a "pay for delay" pharmaceutical antitrust class action against seven defendants in December. The case, *In re: Bystolic Antitrust Litigation* in the U.S. District Court for the Southern District of New York, involved the hypertension drug Bystolic and was brought under a 2013 U.S. Supreme Court precedent.

Such dismissals are rare, and the exposure for defendants in such cases is often over \$1 billion, while the settlements routinely reach hundreds of millions of dollars.

"That was coming full circle for me," Grannon said, because he was defense counsel of record in the reverse payment case that ended with the 2013 Supreme Court decision for the federal government. A flood of class action suits against drug companies followed.

"Nine years later, I am litigating the aftermath and winning a dismissal," he said. "That was a special accomplishment for me."

— *As told to Sue Reisinger.*

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.