

## Rising Star: Cravath's J. Wesley Earnhardt

By **Carolina Bolado**

*Law360, Miami (April 1, 2016, 12:17 PM ET) --*

Cravath Swaine & Moore LLP's J. Wesley Earnhardt is only 37 but has already notched a series of high-profile wins in class actions targeting clients like ESPN, Xerox Corp. and JPMorgan Chase & Co., earning him a spot among Law360's 2016 Rising Stars in class action.

In June, Earnhardt and his colleagues scored a big victory for ABC and ESPN when they won a motion to dismiss putative class claims alleging the broadcasters, athletic conferences and licensing entities conspired to limit student-athlete compensation. The Cravath team drafted the briefs for the network giants and took the lead at oral arguments on behalf of all of the defendants. The case is currently on appeal.



J. Wesley Earnhardt

"We did a good job in the district court in making very simple what could seem on the surface to be a complicated issue," Earnhardt said. "If there is a secret, it is to simplify."

He and his team also won summary judgment for Xerox in a 13-year-old securities class action that alleged more than \$2 billion in damages from alleged misrepresentations of the success of the company's 1998 global restructuring program.

By carefully cataloging Xerox's internal records and public disclosures, Earnhardt was able to disprove the plaintiffs' misstatement claims. He also deposed the plaintiffs' restructuring and loss causation expert and helped get that testimony excluded. The Second Circuit affirmed summary judgment in September 2014.

"I'm really proud of the work we did in the Xerox class action because it went on for over a decade, and at the end of the day, the district court and the Second Circuit agreed with us that the client had not committed any fraud," Earnhardt said. "We vindicated the client on the facts."

Earnhardt began at Cravath as a summer associate in 2003 and joined as a full-time associate the following year. He even worked part-time for the firm in his third year of law school at the University of North Carolina, helping to put together motions for cases he'd worked on the previous summer.

In 2011, he was elected partner.

“One of the things that I like most about the firm is that every partner here tries their best to support the other partners, and I've been given remarkable opportunities to take control of cases and litigation by more senior partners because of the culture of the firm,” Earnhardt said. “The whole system is designed to foster that approach.”

He said the firm's litigators are generalists who can handle cases in a wide variety of industries and areas of the law. His own practice began to weight heavily towards class action work when as an associate he worked with a number of partners who were handling large class actions.

“What I like doing is helping clients solve their most difficult problems,” he said. “Class actions often fit that bill.”

Complex class action litigation often requires creative strategy, something at which Earnhardt excels, according to Cravath chairman Evan Chesler.

“He really will think of approaches or strategies that are not obvious and many people would not think of,” Chesler said. “He's constantly thinking and evaluating and reevaluating positions and approaches.”

Earnhardt used that creativity to defend First Citizens BancShares Inc. against a putative shareholder class action over a proposed merger. In September 2014, a Delaware Chancery judge ruled that the company's bylaws require nearly all shareholder disputes be litigated in North Carolina, despite the bank holding company's incorporation in Delaware.

The landmark ruling strengthened support for forum selection bylaws. The defense team gambled that the plaintiffs would not file another challenge in North Carolina, and they were right.

Earnhardt has also represented JPMorgan and related entities in a number of lawsuits concerning residential mortgage-backed securities and won victories in the first two major RMBS investor actions to proceed through the end of discovery and summary judgment.

In 2015, he and his team were hired by air cargo company Atlas Air Worldwide Holdings to jump in as trial counsel in a 9-year-old consolidated multidistrict antitrust suit alleging the company had conspired to fix global air cargo fuel and security surcharges. The Cravath team, which was brought in after class certification, helped Atlas and its subsidiary Polar Air Cargo negotiate a favorable settlement in January.

--Editing by Rebecca Flanagan.

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