

Rising Star: Gibson Dunn's Timothy Loose

Law360 (August 7, 2018, 1:59 PM EDT) -- Gibson Dunn & Crutcher LLP partner Timothy Loose has helped several companies beat class action claims filed over alleged violations of the Telephone Consumer Protection Act, including a unsolicited text suit against Yahoo that carried legal exposure of nearly \$500 million, earning him a spot among the five cybersecurity and privacy law attorneys under age 40 honored by Law360 as Rising Stars.

HIS PROUDEST MOMENT AS AN ATTORNEY:

Loose, a Law360 Rising Star for a second straight year, cited his work on the Gibson Dunn team that in February convinced an Illinois federal court to decertify a class of U.S. Sprint Wireless customers who had sued Yahoo for alleged TCPA violations. The users had claimed that they did not consent to a welcome text they received from the web company about a new instant messaging service.

With Yahoo facing a certified class of over 320,000 class members and exposure to more than \$480 million in statutory damages, Loose worked with Yahoo's engineers to dig up new evidence that indicated that roughly a quarter of recipients may have consented to the welcome texts after all. U.S. District Judge Manish S. Shah found that the class was "unmanageable" and in June denied the plaintiffs' bid to reconsider the decision, swatting away the claims for good.

"To be able to be part of developing the facts and the law in the record, and to show the court that the circumstances had changed since the class was originally certified was really a great high for me," Loose said. "I was proud to be part of a watershed case like that."

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STAR



Timothy Loose
Gibson Dunn

Age: 37

Home base: Los Angeles

Position: Partner

Law school: UCLA School of Law

First job after law school: Clerk for the U.S. District Court for the Central District of California

OTHER CASES HE'S WORKED ON:

Another of Loose's victories this year came on behalf of online used car retailer Vroom, which had faced a TCPA class action suit that Loose argued stretched the statute — which aims to protect consumers from robocalls and spam messages — too far.

Mark Edelsberg had sued Vroom after the e-retailer sent him a single text message expressing interest in a Craigslist ad Edelsberg had posted in an attempt to sell his mother's Toyota Prius, according to court records. Edelsberg, who had included his cell phone number in the ad, filed a putative nationwide class action against Vroom, alleging that he did not consent to be texted by the company. The suit sought more than \$250 million in statutory damages.

Loose helped craft and develop Vroom's defense, and in March won summary judgment in the case after convincing a Florida federal judge that Edelsberg had in fact expressed his express consent, and that Vroom's text was not "telemarketing" as the TCPA defines it.

"It was exciting and gratifying to help explain to the court why the expansion to the statute that the plaintiff lawyers were asking for went too far and threw things out of balance," Loose said of the case, adding that lawyers for the proposed class wanted to prevent companies from having "completely legitimate and invited communications with individuals."

WHAT ATTRACTS HIM TO PRIVACY & CYBERSECURITY CASES:

"I'm intrigued by the application of law to new technologies and the questions it raises about what lines are going to be drawn," said Loose of the still largely unregulated world of data privacy law. "There's a newness about it that requires you to figure out where the standards should be."

He added that he's particularly excited to help shape the scope of law surrounding consumer technology as mass data collection becomes an increasingly essential part of daily life. "To be a part of advocating for where the lines should be drawn and what the right result should be when the canvas is still being painted on is a really dynamic thing," he said. "The decisions that we are making today will have long-lasting impacts."

One of the biggest challenges facing the courts, Loose said, is balancing encouraging companies to innovate with the inherent risk of data being misused.

"There's a lot of power in the data, and that raises questions about what is the best way to harness that power," he said.

HOW THE PRIVACY LEGAL LANDSCAPE WILL CHANGE IN THE NEXT DECADE:

"The big trend that I see is expansion," Loose said, referring to both the amount of privacy-related litigation being filed and laws or standards being enacted to regulate industries that interact with consumer data.

He also sees a likely expansion of the types of devices that will soon be the subject of legal disputes, as the rise of the so-called internet of things puts more and more connected gadgets into every facet of peoples' lives.

"In any place where we are seeing technology where there is an opportunity for intrusion or invasion, we are going to start seeing more litigation when those systems are threatened," Loose said.

"This is the new frontier where courts will have to decide where the lines should be drawn, and what obligations companies should or should not have when it comes to protection," he added.

— *As told to Ben Kochman*

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2018 Rising Stars winners after reviewing more than 1,200 submissions. This interview has been edited and condensed.