

MVP: Gibson Dunn's Jason C. Schwartz

By **Amanda Ottaway**

Law360 (October 6, 2020, 3:19 PM EDT) -- Gibson Dunn & Crutcher LLP's Jason C. Schwartz, an expert dismantler of worker class actions, collected a win for his client Lowe's last month when a North Carolina judge dismissed a wage case involving potentially thousands of workers, earning him a spot among Law360's 2020 Employment Law MVPs for the second straight year.

Schwartz has also been at the vanguard this year in protecting companies from novel and COVID-19-related claims, for example as lead counsel for Amazon in a public nuisance and workplace safety suit filed by warehouse workers on Staten Island in New York City.

In the Lowe's case, the workers argued that their regular and overtime rates were miscalculated because the company didn't factor in a bonus after the Trump administration's 2017 tax reforms or paid employee volunteer days.

But Schwartz helped snag the win for Lowe's in part by arguing in a brief that the tax reform bonus was classified as a gift even though the employees knew about it ahead of time, though they had tried to argue that the company had unlawfully categorized those payments as discretionary.

The law, Schwartz wrote, does not say that a gift to employees must be presented like a surprise Publisher's Clearinghouse knock on the door.

The judge agreed with Schwartz, saying a gift could still be a gift even if it was not a "total surprise."

HIS BIGGEST CHALLENGE THIS YEAR:

Laughing, Schwartz said his biggest challenge and biggest achievement of the year were the same — helping Gibson Dunn clients shift their employees into working from home or keep their on-site workers safe as the COVID-19 pandemic bore down on the globe. It's the busiest year he's ever had, he said.



"When was the last time somebody confronted WARN Act notices in the context of a global pandemic?" he joked.

But Schwartz also highlighted the hasty creation of employment laws around COVID-19 and the challenges he and his colleagues face navigating new legal waters, all while working separately from home and dealing with unprecedented outside stressors.

"In many ways I think this has actually drawn us closer together, weirdly," he said. "And also, even more than ever, [it's] promoted teamwork, because everybody wants to help, and everybody needs help."

HIS PROUDEST MOMENT THIS YEAR:

Schwartz said clients facing "complicated, novel" and time-sensitive pandemic-related questions coming to the firm for help — for example, asking how a new leave program might affect their employees in each of the 50 states — were met with enthusiasm and dedication by his colleagues.

He noted that one associate suggested compiling a daily survey of states' reactions to the pandemic for the benefit of clients. Now posted weekly, the updates have attracted more than 1,000 subscribers, Schwartz said.

"It was one of those moments where I was so proud of the team," he said. "It has been a hugely valuable resource."

WHY HE'S AN EMPLOYMENT ATTORNEY:

Schwartz likes to help people, thrives on solving problems and loves the challenge of a brand new or newly assigned case.

"I'm lucky to get paid to do this — it's a lot of fun," he said.

He also loves learning about different professions. He likes to start every case by doing a "day in the life" at the client's work site.

"I've been at a case for a government contractor where I went out with drone pilots," he said, "so that was pretty cool — it was like you were at a super-advanced, grown-ups' version of a video game console." He's also toured beer bottling factories, warehouses and distribution centers, and stores, he said.

WHAT MOTIVATES HIM:

"Clients come to us in their most challenging moments," he said. "I like hearing, 'Here's this difficult problem we have,' and then coming in with a team of people to think, All right, how are we going to solve that and get to the winning outcome for you?"

He said his "favorite thing" is when somebody calls with a new case, or with an existing case that's stuck in a rut.

"Throw down that challenge, I love that," Schwartz said.

— *As told to Amanda Ottaway*

Law360's MVPs 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 2020 MVP winners after reviewing more than 900 submissions.

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