

Rising Star: Gibson Dunn's Julian Poon

By Jeremy Heallen

Law360, Houston (April 15, 2014, 10:13 PM ET) -- Staring down sprawling wage and hour litigation, Farmers Insurance Exchange called on Julian Poon to overcome a troublesome class certification order, landing the Gibson Dunn partner on Law360's list of top class action lawyers under 40.

The 2014 Rising Star has made a career out of slaying class actions before they get off the ground. A former law clerk to U.S. Supreme Court Justice Antonin Scalia, Poon leveraged his acumen as an appellate ace to develop a niche practice as the go-to attorney when major employers embroiled in pay disputes find themselves on the wrong end of class certification rulings.

For Farmers Insurance Exchange, the 39-year-old Poon resembles a white knight, having helped the company deflect a class action alleging the insurer illegally withheld overtime pay and rest and meal breaks from more than 600 California employees.

A California trial court certified the class in October 2012 over Farmers' objection that the purported class members were too dissimilar. It was then that Gibson Dunn parachuted in to handle the insurer's effort to challenge the ruling in California's Second Appellate District.

The Gibson Dunn team was immediately confronted with a problem — convincing the appeals court to consider Farmers' writ petition was no easy task. Poon says that the case had to be framed in a way that highlighted its potential for influencing the state's jurisprudence.

"You have to develop a strategy not just to win on the merits but to convince the court to hear the case to begin with," Poon said. "How do you package a case in a way that sets it apart from others?"

Poon says he initially argued a narrow ground for overturning certification — that the trial court had based its ruling entirely on the California Supreme Court's ruling in *Harris v. Superior Court*, which had subsequently been depublished.

But the appeals court threw a curveball when it requested three full rounds of briefing in what initially seemed to be a straightforward case, forcing Gibson Dunn attorneys to develop broader arguments for reversal.

Poon argued that Farmers' case opened a can of worms by calling into question the application of California appellate rules that prohibit continued reliance on depublished cases and hold that the state

supreme court is neutral on the correctness of depublished opinions.

The strategy worked. In July, the appeals court overturned class certification in the case on the initial ground advanced by Farmers — that the Harris decision could not support the trial court's ruling.

"It was challenging at the outset to determine how the court was thinking about our case, especially given the multiple rounds of briefing that were requested," Poon said, adding that Gibson Dunn's eventual victory in the hard fought case was "enormously fulfilling."

Poon was also part of a Gibson Dunn team who persuaded the Pennsylvania Supreme Court to review an employee wage class action involving a \$187.6 million judgment against Wal-Mart Stores Inc. — the largest in Pennsylvania's history.

The Pennsylvania Superior Court in June 2011 upheld findings by a Philadelphia County trial court that handed awards to a class of 187,000 Wal-Mart workers who say they were forced to work off the clock and skip meal and rest breaks. The appeals court found that the "trial-by-formula method," which involves picking a representative set of class members, was not improper.

Poon played a key role in briefing the appeal to Pennsylvania's high court, in which Wal-Mart argued that the trial-by-formula method unfairly relieved the class plaintiffs of their burden to produce common evidence on key elements of their claims.

The Pennsylvania Supreme Court was convinced to weigh in and hear oral arguments in the case last May. The high court's eventual ruling could become a bellwether for how state courts should adjust their class certification rules.

Poon says the path to success as a young lawyer depends on an "unrelenting commitment to excellence" but adds that it's equally important to cultivate relationships with clients, colleagues and mentors. Developing an early connection with Gibson Dunn partner Ted Boutrous, who introduced Poon to his first wage and hour class action case, influenced him during his formative associate years.

And remembering that there's more to life than just being a lawyer is perhaps one of the most valuable lessons Poon says he's learned over the years.

"I've found that the things that have made me a better person, husband and father have also made me a better lawyer," he said.

--Additional reporting by Matt Fair and Bill Donahue. Editing by Christine Chun.