

MVP: Latham's Matthew Brill and Matthew Murchison

By Kelcee Griffis

Law360 (September 27, 2021, 3:30 PM EDT) -- Known to clients as "the two Matts," Matthew Brill and Matthew Murchison of Latham & Watkins LLP have had a hand in a slew of high-profile telecom matters in the last year, including getting Maine's a la carte cable law invalidated and steering an ongoing challenge to California's net neutrality law, earning them a spot among Law360's 2021 Telecommunications MVPs.

THEIR BIGGEST ACCOMPLISHMENT THIS YEAR:

Brill and Murchison led Comcast and other cable companies to a First Circuit victory when the appeals court struck down a Maine state law that required cable companies to sell access to individual channels, rather than packaging them in all-or-nothing bundles. A district court originally blocked the law on constitutional grounds, and the First Circuit agreed in February that a state cannot force cable companies to unbundle their channels.

"Any time you're dealing with a constitutional challenge to a state law, the stakes are high, and it's often important precedent-setting material," Brill said. "We're very gratified that the district court and the court of appeals agreed with our position: that the state could not dictate how cable companies package and sell their programming, because doing so overrides [First Amendment] editorial discretion."

THEIR PROUDEST MOMENTS:

Brill and Murchison have been instrumental in reshaping the legal and regulatory landscape surrounding robocalls, including securing Supreme Court rulings that narrowed the scope of liability for companies that use automated calls to reach customers.

For Brill, who helped represent the American Association of Political Consultants in a dispute that led to a key U.S. Supreme Court decision last July, it was "gratifying" to see the high court embrace "a constitutional theory that we had developed," ultimately doing away with an exemption to the Telephone Consumer Protection Act that applied to calls made to collect federally backed debts.

At the Ninth Circuit, Brill had unsuccessfully argued that the exemption amounted



**Matthew Brill and
Matthew Murchison**
Latham & Watkins

to a "content-based preference for certain calls" in violation of the First Amendment.

"It was nice to see the Supreme Court agree with much of our reasoning," he said.

In another case, the Supreme Court embraced Latham attorneys' arguments on behalf of Facebook that the TCPA narrowly covers only randomly fired calls and texts to cellphones.

For Murchison, who helped develop some of the robocall legal theories validated by the courts, "it was also nice that the victory brought additional clarity" for businesses that were worried about reaching out to customers in a way that potentially ran afoul of anti-robocall law, he said.

OTHER NOTABLE CASES THEY'VE WORKED ON:

Murchison and Brill have also had their hands full defending the cable industry against states' attempts to impose their own net neutrality laws in the wake of the Trump-era Federal Communications Commission's deregulatory vote, which did away with rules that prohibited internet providers from blocking, slowing or granting paid priority to web content.

In addition to advocating for cable trade group NCTA and its members at the FCC, the pair have notably been challenging California's state law that restricts how internet providers manage their networks. The Ninth Circuit recently heard oral arguments from cable companies and the FCC in the suit.

"We've been leading the charge for the cable industry in challenging state laws that conflict with the federal regime," Brill said. "It has been really an honor for us to represent the industry in that really groundbreaking case."

THEIR ADVICE FOR JUNIOR ATTORNEYS:

Murchison said new attorneys should keep an open mind and prioritize getting real-world experience before deciding what kind of law they want to practice.

"It's one thing to read a list of subject areas and pick one that sounds interesting based on a class you took in law school," he said. "It's another to actually spend time being a communications lawyer, or an antitrust lawyer, or a project finance lawyer and making a career decision based on your lived experience."

Brill added that attorneys must never forget the value of attentive and tailored client service.

"It's vital to not only provide excellent legal work but [also] excellent client service: to be responsive, to acknowledge requests, to meet deadlines, and most importantly, to listen to the clients' needs," he said. "The very best junior attorneys quickly realize that the service we provide needs to be responsive, timely and carefully calibrated."

— *As told to Kelcee Griffis. Editing by Ellen Johnson.*

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 2021 MVP winners after reviewing nearly 900 submissions.