

MVP: Latham's Serrin Turner

By Caleb Symons

Law360 (September 13, 2022, 2:02 PM EDT) -- Serrin Turner of Latham & Watkins LLP secured a groundbreaking decision in April dismissing a class action against the online game developer Zynga with a novel application of U.S. Supreme Court precedent that could extend to other data breach cases, earning him a spot among Law360's 2022 Cybersecurity & Privacy MVPs.

HIS BIGGEST ACCOMPLISHMENT IN THE PAST YEAR:

In representing Zynga against claims arising from a 2019 data breach that reportedly affected some 200 million users, Turner put forth a new interpretation of the Supreme Court's decision last year in *TransUnion LLC v. Ramirez* to secure dismissal with prejudice.

In dismissing the case against the Words With Friends company, a California federal judge agreed with Turner's argument that the *TransUnion* ruling — in which the high court tightened standing rules to require a concrete injury — means that people whose data is stolen or mishandled cannot sue for damages under a general risk of identity theft.

Since plaintiffs in data breach lawsuits historically have cited the threat of identity theft to establish standing, the case's dismissal could have a substantial impact on privacy-related class actions in the future, according to Turner.

"We think it's an important precedent that we hope other courts will follow in other data breach cases," he said.

WHY HE'S A DATA SECURITY AND PRIVACY ATTORNEY:

As former assistant U.S. attorney for the Southern District of New York, where he was the lead cybercrime prosecutor, Turner said he gravitated toward the field because it was "rapidly evolving" and had "no set playbook," offering space for creative work.

When he joined Latham in 2016, Turner said a similar environment drew him to civil litigation involving data privacy and cybersecurity.



"It's still pretty open-ended," he said. "The practical implications are still very much up in the air, and there are lots of interesting, unsettled legal issues."

HOW THE FIELD HAS CHANGED IN THE PAST DECADE:

Turner noted a burgeoning regulatory interest in the field, pointing to a "proliferation" of new privacy laws such as the European Union's General Data Protection Regulation and the California Consumer Privacy Act, both of which took effect in 2018. That trend, which also includes higher fines that can be levied against offenders and more public interest in privacy issues, will likely continue in the coming years, Turner said.

"The flow of data [and] information is more and more fundamental to everything that businesses do, so it's just increasingly subject to regulatory focus," he said.

In a sign of the shifting landscape, Turner is advising Meta Platforms Ireland Ltd. as the Facebook parent's European arm faces scrutiny over whether it can continue transferring users' personal data from Europe to the United States. That practice has drawn the attention of European regulators since the European Court of Justice raised concerns two years ago that U.S. law does not adequately protect Europeans' data.

HIS BIGGEST CHALLENGE IN THE PAST YEAR:

With new data and privacy regulations coming into effect so frequently these days, Turner said companies and their counsel are often left with questions about the standards they're supposed to uphold. That can be particularly difficult for global entities, he said, since they must deal with different rules in their various places of operation, in addition to powerful regulators who are "eager to bring enforcement actions and flex their muscle."

"At the same time, because the law in this area is still so unsettled and loosely defined, that makes it kind of fun for a lawyer," Turner added. "There's lots of room left for creativity ... when it comes to advocacy. So you have a lot more leeway, not just to argue how the law should be applied to the facts, but to argue what the relevant legal standard is in the first place — or what it should be."

HIS ADVICE FOR JUNIOR ATTORNEYS:

Turner urged younger attorneys not to be intimidated by the technical aspects of data privacy and cybersecurity issues, explaining he works with clients and other experts — often software engineers at a company — to understand the details of each case.

"I've always liked tech and been comfortable in the space, but I don't have a computer science degree or anything like that," he said. "As long as you have an interest in the area and a willingness to learn, that's really all that it takes."

"Other than that, my advice is ... do the things you would do in any other practice area," Turner said. "To me, the most important things are learning the facts inside and out, and writing well."

— *As told to Caleb Symons.*

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