



LAW360

2016 Rising Star

Daniel Bress

In his short career, Kirkland & Ellis LLP's Daniel Bress has helped clients like United Technologies Corp., Teva Pharmaceuticals USA Inc. and Wyndham Worldwide beat back class actions and secure key favorable rulings, earning him a spot among *Law360's* 2016 Rising Stars in the class action arena.

Bress, 36, has already been a partner in Kirkland & Ellis' Washington, D.C., office for five years, and in that time he has helped his clients secure a number of victories, such as a Ninth Circuit en banc decision in November 2014 ruling that a number of coordinated lawsuits in California state court were a removable "mass action" under the Class Action Fairness Act, which permits removal to federal court when an action has 100 or more plaintiffs with monetary claims.

Bress and his Kirkland & Ellis colleagues were brought in for the en banc appeal to represent Teva Pharmaceuticals USA Inc., one of two drug companies targeted in the various suits over alleged cardiovascular injuries caused by pain medication propoxyphene.

"It's a key issue because it really prevents plaintiffs from getting around CAFA," Bress said. "I think

a 9-2 decision coming out of the Ninth Circuit is a significant victory. Other courts look to what the Ninth Circuit says, but they look more at what an en banc court says."

Bress, who says he "specializes at being a generalist," focuses his practice on complex trial and appellate litigation, including many high-profile class actions.

The key to litigating a class action, he said, is to juggle two defenses at once: First, to beat back the case on the merits, and secondly to block class certification.

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"The key is to be presenting your case to the court from day one with the goal not just to respond to the allegations but also to show the court from the beginning that the case is unwieldy and can't properly be certified under Rule 23," he said.

It may seem more complicated than other types of litigation, but for Bress, that's part of the appeal.

"There are many complex legal issues to address, but there are also many opportunities for creativity," he said. "To me, it's the best of complex litigation."

Among his wins are three complete dismissals with prejudice for United Technologies of three putative federal class actions stemming from alleged defects in Carrier home air conditioning systems. In each of the cases, the judges ruled that UTC's limited warranties were valid and

enforceable and that the plaintiffs had failed to state claims for fraud and unfair trade practices.

“It’s been a real privilege to represent a company that has been out in front to address issues with its products when they arise,” Bress said. “We’ve been able to demonstrate to courts that this client has been exceeding its warranty obligations.”

He is also the co-lead counsel defending BASF Catalysts in a putative nationwide class action in New Jersey alleging fraud and racketeering violations in asbestos cases litigated around the country. The Third Circuit affirmed the dismissal of the racketeering claims as well as the plaintiffs’ request for injunctive relief. The remaining claims are still being litigated.

Bress also helped defend hotel giant Wyndham in another putative nationwide class action in Florida brought by 14 hotel franchisees challenging the company’s customer loyalty program and asking for more than \$300 million in damages. The franchisees, which wanted to certify a class of almost all of Wyndham’s 6,000 franchisees in the U.S., argued that the fee charged by the company for operating the rewards program and its policies were unfair trade

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practices and breaches of the franchise agreements.

Bress and the Kirkland team successfully convinced the court to pare down the plaintiffs’ claims and secured affidavits from putative class members objecting to the suit and sowing class division. After discovery, the plaintiffs abandoned class certification and settled in April 2012.

Bress, who holds an undergraduate degree from Harvard University and a J.D. from the University of Virginia School of Law, clerked first for U.S. Circuit Judge J. Harvie Wilkinson III in the Fourth Circuit and later for U.S. Supreme Court Justice Antonin Scalia. In 2008, he joined Kirkland’s litigation group and was promoted to partner in 2011.

He said there’s no secret trick to moving quickly up the ranks at a law firm, but he would advise young litigators to always look for opportunities to get involved in cases.

“Your goal as a younger attorney is to get some at-bats,” he said. “Don’t wait to be told what to do, but think creatively and raise your hand and offer to do something.”

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