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TRAILBLAZERS

LITIGATION

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What was the genesis of the idea/path that has made you a trailblazer?

Securities plaintiffs have leveraged the Supreme Court's Cyan ruling to file substantively identical securities class actions in multiple state and federal jurisdictions. CVS faced this problem when different plaintiffs filed six parallel class actions in quick succession across multiple federal and state courts.

With no clear mechanism to consolidate the cases, we had to litigate them concurrently. We needed to be creative, and dive deep into local rules, caselaw, and state court practices to find footholds to build our arguments. We won our motion to stay the cases filed in one state court under the "first-to-file" rule. When I argued the motion, the Court pointed out that the Rhode Island Supreme Court had never adopted the rule. But the Court agreed nevertheless, it was right to apply it here. Since then, we have won dismissal of the cases filed in New York state court and one of the federal cases.

Each case carried with it its own procedural and legal idiosyncrasies. Our challenge has been to fight each as a standalone case, mindful of the larger context.

What sort of change has resulted from the concept?

Multi-jurisdictional securities class actions are pending all around the country. The defense bar can leverage our successful application of the "first-to-file" rule as a tool in the arsenal against costly and duplicative class actions.

What bearing will this have on the future?

These are not going away unless Congress acts to close the loophole in the securities laws that underlies Cyan. My strategy is to go deep into the rules and practices in each state court I find myself in, and fight case by case, and day by day, to win.