

Class Action Group Of The Year: Susman Godfrey

By **Diana Novak Jones**

Law360, Chicago (January 26, 2017, 2:23 PM EST) -- During a year marked by millions in settlements for auto part customers, rock stars and animators, Susman Godfrey LLP's success in a series of complex — and wildly different — class actions earned it a place among Law360's Class Action Practice Groups of the Year.

But the award may be a bit of a misnomer, as Susman Godfrey doesn't organize itself into practice groups. It's that decision partner Marc Seltzer credits with why the firm is able to handle such a wide variety of industries in its class action work.

"We do all different kinds of commercial civil litigation," Seltzer told Law360. "I think that gives us a generalist experience and approach to practicing law. We really have a unique perspective on how these cases can be litigated efficiently."



The firm used its adaptability to take on several high-profile class actions in the entertainment industry last year, an industry that Susman Godfrey partners said represents a relatively new addition to the firm's stable of fields.

Susman Godfrey served as co-counsel to a class of musicians led by 1960s rock band The Turtles, suing Sirius XM over royalties after the satellite radio provider played their songs. Though their music was recorded before 1972 and so doesn't fall under federal copyright law, a California federal judge ruled in 2014 that Sirius was liable for royalties for the public performance of those songs.

Gradstein & Marzano PC teamed up with Susman Godfrey after that ruling to help protect the certified class and try the case if necessary, according to Steven Sklaver, a Susman Godfrey partner who worked on it. Susman Godfrey isn't shy about taking class actions to trial, Sklaver told Law360, which he said is likely part of why Sirius ultimately agreed to settle in November.

Under the deal, Sirius agreed to pay up to \$99 million in both retroactive and future royalties to The Turtles and other artists with pre-1972 recordings. The settlement does allow Sirius to appeal the judge's ruling on its liability for public performance, but will award the class an additional \$5 million and a 2 percent increase in the royalty rate if the ruling is upheld.

"We are first and foremost a trial law firm," Sklaver said, adding that a trial holds defendants' feet to the

fire. “We believe that approach adds value to a case. We’re willing to take that risk to drive up the value and benefits for the class.”

The Sirius deal wasn’t the only one Susman Godfrey negotiated in 2016 ahead of a scheduled trial.

The firm secured nearly \$70 million in settlements last year as co-counsel for a class of animators and visual effects employees who sued several of Hollywood’s biggest movie studios over claims the studios had a “gentleman’s agreement” not to poach each other’s employees or get into bidding wars to hire them.

In the most recent settlement, announced in October, Dreamworks Animation SKG Ltd. agreed to pay the class \$50 million to end their claims, a payout that the class said represented about 40 percent of what Dreamworks’ actions cost its animators.

Earlier in 2016, the class negotiated a \$6 million agreement with Twentieth Century Fox Film Corp. subsidiary Blue Sky Studios and a \$13 million deal with Sony Pictures Corp. units Sony Pictures Imageworks Inc. and Sony Pictures Animation Inc.

The Walt Disney Co. and Lucasfilm Ltd. are among the studios still involved in the suit, which was filed in September 2014.

But despite the big names involved, Susman Godfrey’s entertainment industry actions aren’t the biggest cases it took on last year. The entertainment settlements were negotiated while the firm took a starring role in massive multidistrict litigation against auto part manufacturers in Michigan federal court.

In that litigation, which involves more than 30 related actions involving different components of automobiles, Susman Godfrey is among several firms representing consumers who purchased or leased cars containing parts made by manufacturers that allegedly worked together to rig bids and fix prices.

The end payor purchaser class counsel team on the MDL, which includes both Sklaver and Seltzer, has so far negotiated approximately \$673 million in partial settlements on behalf of the consumer class.

The settlements were scattered throughout last year, with some companies, like Japanese bearing manufacturer NTN Corp., signing off on several separate deals for allegations about different components.

The firm’s history in class actions — and its ability to adapt quickly to serving clients in varying industries — comes down to a single specific skill, Sklaver told Law360.

“What we do have is an ability to take a complex, thorny problem, analyze it and present it in a clean, simple manner,” Sklaver said. While the firm uses it in all the work it does, “that skill set applies in class actions. The stakes get bigger.”

--Additional reporting by Bill Donahue, Kat Greene, Eric Kroh and Kelly Knaub. Editing by Jack Karp.