

MVP: Davis Wright's John Goldmark

By Diana Novak Jones

Law360 (October 5, 2020, 4:19 PM EDT) -- John Goldmark of Davis Wright Tremaine LLP scored a win for cannabis private equity firm Privateer Holdings by ending a lawsuit brought against the firm by rapper Master P after a judge levied hefty sanctions against the entertainer, a headline-grabbing moment that earned him a spot as one of Law360's 2020 cannabis MVPs.

HIS PROUDEST MOMENT THIS YEAR:

Bringing the Master P fight to a close without a trial — or further costs to his client — was the victory that defined the year for Goldmark.

Master P, whose given name is Percy Miller, had been fighting Privateer for three years over claims the firm had breached an oral agreement to distribute and promote his cannabis brand, Master P's Trees. But the rapper had skipped out on two depositions at the last minute, and Privateer told the judge it had been given a "dummy" phone after Master P had been ordered to turn his phone over for forensic examination.

"The discovery misconduct that these guys were engaged in, we had to work really hard to expose that," Goldmark said. "You have to be patient, you have to recognize the soft areas and not give up on pushing them."

The judge hit Master P with more than \$9,000 in sanctions, and Privateer was asking for another \$60,000 when the rapper agreed to a settlement. In July, he dropped his claims in exchange for Privateer's release of the sanctions.

HIS BIGGEST CHALLENGE THIS YEAR:

Goldmark was brought in at a flashpoint in litigation between California cannabis company Left Coast Ventures and Florida company Bill's Nursery that could have had lasting impact on the cannabis industry as a whole.

In a suit in federal court in Washington state, Left Coast was accusing Bill's Nursery of breaching an agreement the pair would use to enter Florida's medical marijuana industry. But before she would rule on the merits of the case, U.S. District Judge Marsha J. Pechman asked the parties to explain how she could order the parties to do anything when the business at the heart of the dispute was federally illegal.



"That was the point at which I got brought in," Goldmark said.

The situation presented was dicey in two ways: Goldmark was new to the case, and the entire future of the dispute — and future cannabis industry contracts — turned on Left Coast's response to the judge.

"There were big-picture issues we had to brief on a short time frame," he said. "[We developed] this fallback argument: At the very least you should exercise your discretion to remand it."

In December, the judge agreed with Goldmark. She remanded the case back to state court rather than rule on the viability of cannabis contracts, striking a blow to litigation defenses based on cannabis' federal illegality.

WHAT MOTIVATES HIM:

As a new industry with complex legal issues, cannabis presents an opportunity to be creative and competitive, Goldmark said. He chose to build a career in litigation because of his love for competition, and representing the cannabis industry kicks the competition element up a notch.

"You're dealing with new issues, a newly regulated industry, not a lot of clear answers," Goldmark said. It "creates room for more creative lawyering, new challenges and a sort of competitive aspect."

HIS ADVICE TO JUNIOR ATTORNEYS:

As much as Goldmark loves the creativity of cannabis, he recognizes that creativity isn't always a litigator's first move. He says young attorneys working with the industry need to let go of the way they've always done things.

"I think litigators can become a little mired in traditional thinking. In the cannabis space, having creative solutions for clients, both in litigation and outside litigation, is ever so important," he said.

When he was defending Privateer Holdings against Master P's claims, it would have been easy to reach for the federal illegality defense and argue that any agreement involving a cannabis company couldn't be enforced, he said. But that would have done real damage to Privateer and the industry as a whole, he said.

"You have to take a whole bunch of steps back, [think about] what you're trying to achieve at the high level — not just get stuck dueling in the weeds," Goldmark said.

— *As told to Diana Novak Jones*

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