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Rising Star: Thompson Hine's Richard Freshwater

By **Keith Goldberg**

Law360, New York (March 31, 2015, 2:21 PM ET) -- By successfully representing major financial institutions in consumer class actions and becoming a go-to source for consumer financial law expertise in the post-financial crisis era, Thompson Hine LLP partner Richard Freshwater has earned a spot on Law360's list of top banking attorneys under the age of 40.

The 35-year-old **Rising Star** said he's been interested in litigation related to consumer lending ever since he was in law school. That interest put him in an ideal position to build up his professional career when the financial crisis hit in 2008, unleashing a flood of consumer financial services litigation, as well as new federal and state regulatory oversight.

"As I was developing my practice, there was a real demand for attorneys that had a base knowledge of consumer finance law," Freshwater said.

Brian Lamb, who chairs Thompson Hine's business litigation practice, says Freshwater anticipated and rode the post-crisis litigation and regulatory wave and banked his career on it. In the process, he brought capabilities to the firm that it didn't have before his arrival, Lamb said.

"He took ownership of his career as an associate, and I just don't see that as much," said Lamb, who pushed for Freshwater's January promotion to partner. "Richard said, 'I'm going to create a career for myself,' and found a way to do it."

Part of that way was diving into consumer finance litigation head first. The first class action Freshwater handled for Thompson Hine was representing Wells Fargo before the Ohio Supreme Court in 2009.

The suit claimed that Ohio Uniform Commercial Code termination statements weren't timely filed following the final payment on the underlying debt. Freshwater got the high court to reverse an appellate court ruling siding with the plaintiffs by successfully arguing that the arbitration provisions in the financing agreements were enforceable.

"Working on a case that would set arbitration law in the state of Ohio for years to come, it



Richard Freshwater

was an enjoyable experience," Freshwater said.

Freshwater also scored a win for Wells Fargo in 2011 when he helped convince an Ohio federal judge to toss a consumer class action asserting violations of the Fair Debt Collection Practices Act, Truth in Lending Act and Ohio's Consumer Sales Practices Act in connection with foreclosure actions filed in the state.

He also helped Countrywide Home Loans Inc. in 2010 fend off a federal class action alleging violations of the TILA, Home Ownership and Equity Protection Act and Real Estate Settlement Procedures Act in connection with loan origination.

At the same time, Freshwater began helping his banking clients navigate the maze of regulations unleashed by the Dodd-Frank Act, especially ones crafted by the financial reform law's most notable creation: the Consumer Financial Protection Bureau.

"When the CFPB was created, it really changed the internal landscape for banking clients and mortgage servicing clients in the sense that all of these regulations were requiring them to change the way they do things, internally and externally," Freshwater said. "As the litigation that arose after the market crash in 2008 started to subside in terms of volume, the need for banking clients to have individuals show [regulatory] expertise and a strong knowledge base increased. I try to keep abreast of what the CFPB is doing in the consumer lending world and try to advise my clients accordingly."

Freshwater says financial services litigation and compliance work go hand-in-hand and having a strong knowledge base in both camps is a major draw for clients.

"They know when I'm reviewing a complaint and drafting motions, I'm not going out and learning the law," Freshwater said. "In advising on the compliance side, having litigation experience means I can tell them not only what to expect when the CFPB or Ohio regulators come and look at their files, but what they may see further down the road in terms of litigation."

It's that type of approach that has set Freshwater up for a long and productive career, according to Lamb.

"The sky's the limit with him, because clients are clamoring for help with this maze of regulatory requirements that the government has created over the last few years and is continuing to create," Lamb said.

Freshwater said it's important to find attorneys to find a practice area they're passionate about, but they should also ensure their knowledge base covers the entire area.

"I've seen attorneys become way too specialized in one area of law. The law changes and their specialty no longer exists," Freshwater said. "Keep an open mind, do what you enjoy, but keep your finger on the pulse of the law in your practice and how it's evolving."

--Editing by John Quinn.

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