

## Class Action Group Of The Year: Cohen Milstein

By Alyssa Aquino

*Law360 (November 30, 2020)* -- Cohen Milstein Sellers & Toll PLLC helped secure \$600 million for Flint, Michigan, residents exposed to lead-tainted water and assisted with negotiating a \$575 million deal to settle antitrust claims against a major California hospital system, earning the firm a place among Law360's 2020 Class Action Groups of the Year.

Managing partner Steve Toll attributed his firm's success to its breadth of expertise. Cohen Milstein has about 100 attorneys spread between several practice areas, all of whom mostly tackle class actions, Toll said.

"That's what enables us to do such a wide swath of cases. So many firms focus on just one area or two areas, but we are very diversified that way," he said.

The firm found particular success over the past year in securing settlements resolving environmental, civil rights and antitrust claims.

One of Cohen Milstein's victories came in the \$600 million deal it helped negotiate for residents in Flint, Michigan, a mostly Black community grappling with an environmental disaster that's been described as a "shock to the conscience." The deal will resolve allegations against several defendants, including the State of Michigan, former Gov. Rick Snyder and others stemming from the lead-tainted water crisis.

Theodore Leopold, co-chair of the firm's complex tort litigation and a lead attorney on the case, didn't mince words as he described the case: "I think this is one of the most substantial and important class actions that has ever been litigated," he said.

Cohen Milstein was among the first to pursue class claims over Flint's lead-tainted water. And it did so at a time when other firms were filing individual suits. But Leopold said the firm was confident in its case early on.

"We wanted to do everything we could to make it right, for the community," Leopold said.

Though Leopold can't pinpoint a single turning point in the litigation, he noted that he deposed Snyder in June, mere weeks before the state agreed to settle.

"I think what came out of that deposition was a lot of 'I can't remember' and a lot of vagueness about certain things that, at the end of the day, didn't really ring true ... if a jury would have been hearing that testimony," he said.



Over the summer Cohen Milstein capped a separate case against Facebook Inc., when a California federal court gave final approval to a \$40 million settlement that ended advertisers' claims against the social media giant, which was accused of misleading them on how much time users spent watching paid video ads.

Working with disability rights advocates, Cohen Milstein helped secure a civil rights settlement in February that resolves claims that the Massachusetts Institute of Technology denied students with hearing disabilities equal access to the thousands of free videos and audio tracks on its online home. Under the settlement, the school agreed to caption these virtual materials.

In December 2019, the firm helped negotiate a \$575 million settlement on behalf of Northern Californian end payors claiming that a number of Sutter Health's practices led to consumers in Northern California paying more than what their Southern Californian counterparts paid.

"575 is a big number for a health care company ... that's a huge number. So now we're only talking about just one part of the state of California to get a recovery like that and in an antitrust case — it's just massive," Toll said.

Cohen Milstein's antitrust pro Dan Small was also heavily involved in the litigation. Small praised the cash settlement as a major recovery, but he pointed out that Sutter Health also agreed to a number of business changes. "We believe [they] will really allow much greater competition on price and quality in Northern California than has existed previously," Small said.

Currently, Cohen Milstein has been litigating the case for 6½ years. "We've been at it a long time," Small said. A preliminary approval hearing took place in September.

Though the firm's wins span across its practice areas, Cohen Milstein actively pushes for cohesion among its specialties, Toll said. For instance, the firm has eschewed an "eat what you kill" compensation model — which rewards attorneys based on their individual case results — in favor of paying attorneys based on how the firm performs throughout the year.

"Everybody's rooting for everybody else. You don't get territorial and try to just — I don't know — hog other employees to work on your cases," Toll explained. "It just avoids a lot of those kinds of jealousies and bickering, I think, by everybody focusing on how the firm does as a total entity."

Toll also said his firm doesn't shy away from sensitive cases.

"We get a lot of opportunities when we look at cases," Toll said. While the firm tries to locate cases with strong claims, he said, Cohen Milstein also tries to back the important ones. "We're basically out there trying to represent the rights of citizens against major corporations, usually, and sometimes government agencies ... to do the right thing by its citizens."

--Editing by Amy Rowe.

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