

## MVP: Cohen Milstein's Sharon K. Robertson

By Emily Lever

*Law360* (September 23, 2021, 4:34 PM EDT) -- Sharon Robertson of Cohen Milstein Sellers & Toll PLLC has waged a number of legal battles in pay-for-delay schemes this year, earning her a spot among Law360's 2021 Life Sciences MVPs.

### **WHY SHE'S A LIFE SCIENCES ANTITRUST ATTORNEY:**

Robertson came to Cohen Milstein as an intern and worked on pharmaceutical antitrust cases. When she returned as an associate, she worked on a variety of antitrust cases ranging from nurse wages to urethane chemicals.

"I fell in love with the subject matter," Robertson said. "There's something really interesting about having the antitrust framework as your backdrop and learning about a different industry each time."

In 2013, a U.S. Supreme Court ruling in *FTC v. Actavis* set off an avalanche of cases over pay-for-delay agreements — that has been Robertson's bread and butter ever since.

Pay-for-delay schemes are anti-competitive behavior in which manufacturers of brand-name drugs pay off or otherwise induce generic manufacturers to keep generics off the market, sometimes even after the drug patent would allow it.

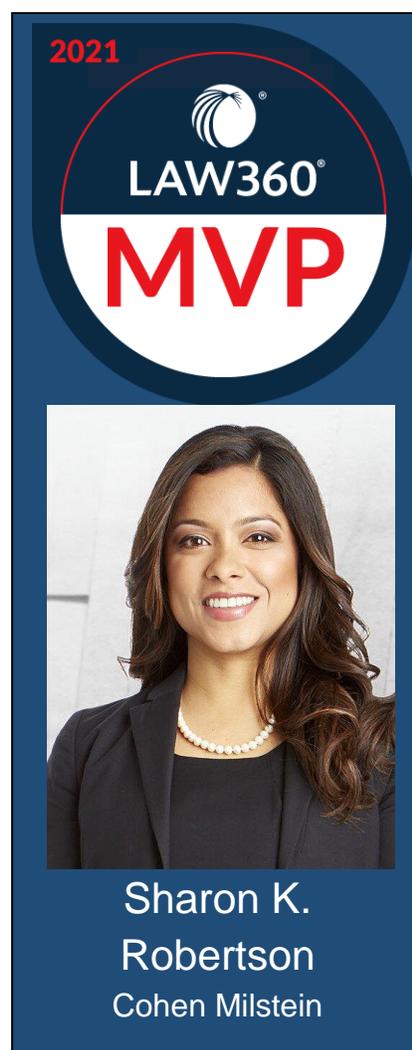
"These drugs, ADHD and heart medications, for example, are lifelines for people," Robertson said. "Paying exorbitant prices for those drugs because someone is engaging in anti-competitive behavior is unacceptable."

### **WHAT MOTIVATES HER:**

Robertson's specialty in pharmaceutical antitrust cases pits her against some of the best-resourced defendants, so she said that what motivates her to wage those uphill battles is a focus on the big picture.

"It's very much like a David and Goliath scenario in a lot of instances," Robertson said. "What sets apart this group of attorneys is the focus on the mission, the desire to bring about systematic change to this industry."

She said she's driven by getting results for patients and other buyers who bear the brunt of steep drug costs.



"For me, it's personally invigorating, challenging conduct that may be business as usual for companies but really hampers access to medications," Robertson said. "You can't use making back [research and development] costs as an excuse for charging exorbitant prices."

#### **HER BIGGEST CASE:**

In April, the Fourth Circuit revived a class action, Mayor & City Council of Baltimore v. Actelion Pharms. Ltd., in which Robertson represented the proposed class of direct buyers

Actelion is accused of keeping prices high for its pulmonary artery hypertension drug Tracleer by blocking would-be generic drug manufacturers from getting samples of Tracleer, which they needed to demonstrate bioequivalence to the brand-name drug.

"We got dismissed right out of the gate at the district court level, but we felt we were right on the law but also right from a policy perspective," Robertson said.

Robertson said she anticipates these kinds of cases aren't going away.

"I hope that there are mechanisms that are pursued from a legislative standpoint," she said. "A lot of this conduct does not have to be reported in any public way, [so] identifying agreements where a brand is paying off the generic is difficult."

#### **HER ADVICE FOR JUNIOR ATTORNEYS:**

Junior attorneys should have an "ownership mentality" about their cases even if they are not lead counsel, Robertson said. "It creates a really subtle but important shift in the way you behave."

"Being the person who rolls up your sleeves and takes on the nitty-gritty work while not losing perspective of the strategic landscape — to me, that's what drives results and success," she added.

Having a handle not just on the case or the assignment, but also understanding the larger context for the case, will take an attorney to the next level.

"You have to be the person who knows your case inside out but also the one who understands the landscape surrounding the case," she said.

— *As told to Emily Lever. Editing by Gemma Horowitz.*

*Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2021 MVP winners after reviewing nearly 900 submissions.*

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