

MVP: Cohen Milstein's Sharon K. Robertson

By Danielle Nichole Smith

Law360 (November 18, 2019) -- Cohen Milstein Sellers & Toll PLLC's Sharon K. Robertson has helped plaintiffs score big wins in antitrust cases accusing pharmaceutical companies of not playing by the rules, including a nearly \$104.8 million settlement for Lidoderm end-payors in a suit alleging a pay-for-delay scheme, landing her among Law360's 2019 Life Sciences MVPs.

HER BIGGEST ACCOMPLISHMENTS FROM THE PAST YEAR:

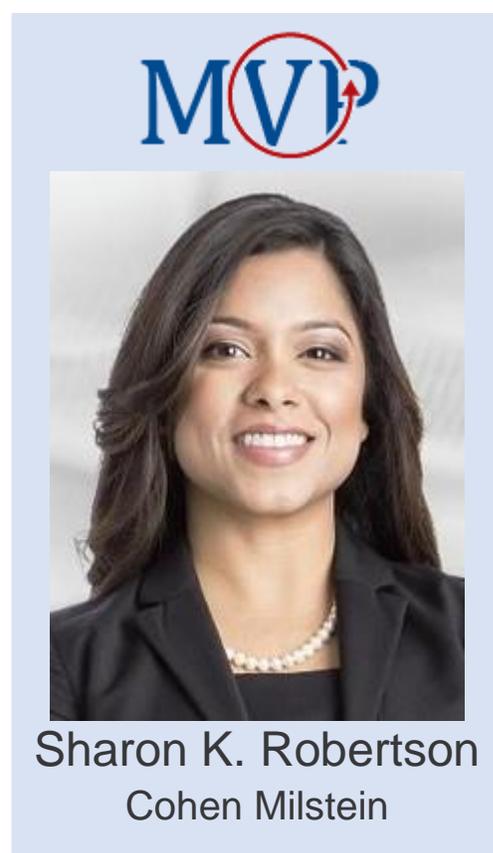
Robertson helped secure final approval for a nearly \$104.8 million settlement agreement for a class of end-payors in litigation over an alleged \$266 million deal to stymie a generic version of the blockbuster anesthetic Lidoderm.

Leading up to the September 2018 deal, Robertson and her team employed experts and secured third-party discovery to counter the idea that it wasn't possible to obtain or use the data necessary for identifying class members.

"In fighting against that, we really took a novel approach of utilizing third-party discovery and our own experts to combat that notion, and I think it was persuasive and the court certified our class and we've had a number of additional victories throughout the case," she said.

Robertson also helped in litigation against former Johnson & Johnson unit Ortho-Clinical Diagnostics Inc. that wrapped up in a \$19.5 million settlement in October 2018, coming in to the case when it was close trial.

"It was a very interesting case in that, again, you were dealing with a set of defendants, who were very sophisticated, and you were dealing with a product, reagents that are used in blood tests — something that we all encounter at some point in our lives," Robertson said. "But we sort of don't think about the technology behind it or the cost or who's behind all of that."



HER BIGGEST CHALLENGE THIS YEAR:

One of Robertson's biggest wins came in September when a Rhode Island federal judge certified a class of third-party payors — such as health and welfare plans, insurance companies and unions — in multidistrict litigation alleging that Warner Chilcott PLC entered into agreements with Lupin Pharmaceuticals Inc. and Watson Pharmaceuticals Inc. to delay a generic version of birth control drug Loestrin.

Robertson said the case was challenging because the First Circuit handed down a decision midway through the briefing process that "really shifted the state of law considerably."

"In realigning our position to address the First Circuit's decision, we had to perform a number of tasks in a very short period of time, including retaining additional experts to submit expert reports, deposing defendants corresponding experts, revamping our class certification definition, engaging in several rounds of briefing — not only on class certification — but also related Daubert motions, and that all culminated in a two-day evidentiary hearing," Robertson said.

Further, the attorneys they were going up against were the same attorneys who had argued *In re: Asacol Antitrust Litigation* at the First Circuit, adding an additional component to the "usual challenge of going up against a big company with the best lawyers, where we're outnumbered and out-resourced," Robertson said.

WHY SHE'S A LIFE SCIENCES ATTORNEY:

Robertson, a partner in the firm's antitrust practice, said she didn't plan on becoming an antitrust lawyer with a focus in life sciences. She stayed away from science in her undergraduate studies and didn't even take an antitrust class at the Benjamin N. Cardozo School of Law, she said.

But while interning at Cohen Milstein during law school, she had her first exposure to pharmaceutical drug cases. The work was fascinating and let her fight for something she really believed in — bringing down drug prices, she said.

"I like to think that becoming an antitrust lawyer who focuses on pharmaceutical cases is life's way of finding the perfect middle ground between my parents' desire that I become a doctor and my own desire to become a lawyer," Robertson said. "It feels like the perfect intersection between those are two areas of law that allow me to focus on something that is medical related but also something that I think is really intellectually stimulating."

Robertson said that she's motivated by the "ability to use the law to change an entire industry and to bring meaningful relief in the form of lower drug prices to consumers."

"The fact that that work is both intellectually challenging and is something that I think really does bring change is a bonus for me," she said.

HER ADVICE FOR JUNIOR ATTORNEYS:

When Robertson was wavering between choosing her parents' dream of medical school and her dream of law school, her brother — who was in medical school at the time — noticed the tension in her thought process and gave her some advice, she said.

"If you don't really love what you're about to do, it's going to be really challenging to do it every single day and it may be even challenging to be successful at it," Robertson said. "And I guess that's the

mantra, I have tried to live by since then."

Her advice to junior attorneys would be the same — "to find something that you love and do that," she said, even though that "sounds kind of cliché."

"If you're not into something and you try to go that route and fulfill somebody else's dream for you, I think it's a lot more challenging than following your own dream for yourself," Robertson said. "Again that sounds super cliché, but I think that's the reality of life — you have to have your own desire at the forefront and not be trying to fulfill someone else's wish for you. Finding that can be challenging sometimes and it may be a long and winding road, but I think it's really important."

— *As told to Danielle Smith*

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 2019 MVP winners after reviewing nearly 900 submissions.

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