

## Plaintiffs Bar Perspective: Cohen Milstein's Victoria Nugent

*Law360, New York* - Victoria S. Nugent is a partner at Cohen Milstein Sellers & Toll PLLC and co-chair of the firm's public client practice group in Washington, D.C. She represents public clients on a range of matters involving deceptive trade practices and Medicaid fraud. Currently, Nugent is representing several states in investigations into Medicaid and consumer fraud by numerous for-profit nursing home chains. She has argued cases before the high courts of Georgia, Nebraska and D.C., as well as the federal D.C. Circuit court.

Prior to joining Cohen Milstein, Nugent worked for seven years at Public Citizen, a national consumer advocacy organization. There, she worked on legislative and regulatory campaigns addressing issues ranging from automobile safety to international trade policy.



Victoria Nugent

Following law school, Nugent was awarded a fellowship from the National Association for Public Interest Law to develop and prosecute impact litigation in the areas of mandatory arbitration and consumer credit at Public Justice. She has served on the D.C. Bar Committee on the Rules of Professional Conduct since 2012.

### **Q: What's the most rewarding aspect of working as a plaintiffs attorney?**

A: I've worked as a plaintiffs lawyer in several capacities: developing groundbreaking impact litigation, prosecuting class actions, and, most recently, representing "public clients" — working with state attorneys general and other public officials to enforce consumer and false claims statutes.

The most rewarding part of working with public clients is knowing that the work improves people's lives on several meaningful levels: the individual, the collective and the systemic. For example, my firm worked on behalf of the state of Nevada to recover money from the investment banks that funded reckless residential mortgage lending in the early 2000s — and created the mortgage crisis that hit Nevada particularly hard. Working with the attorney general's office, we recovered millions of dollars for the state, which the state then used to help distressed homeowners.

The work, which began with an esoteric legal theory, helped individuals who were struggling to pay their mortgages; it helped stabilize communities ravaged by foreclosures; and it addressed a profound injustice: the transfer of home equity from millions of homeowners to a small number of Wall Street traders and investors. Having an impact on those three levels is rewarding because it makes the results specific and personal as well as broad and lasting.

**Q: What skill do you feel is most important for achieving success as a plaintiffs attorney?**

A: Creativity and adaptability. There are far more injustices out there than there are laws; a plaintiffs attorney's job, generally, is to fit the client's problem into an existing, viable legal framework. When representing public clients, that work is even more interesting and challenging. State attorneys general are on the frontlines of consumer protection and enforcement; they take on novel issues and tough cases for the most vulnerable citizens.

While the goal in most of my cases is protecting consumers, money is not the only measure of success; ensuring better conduct prospectively may best serve the client's goals and developing meaningful injunctive relief takes creativity and flexibility.

Finally, enforcement work can take unexpected turns at any stage and in surprising ways. It's important to remain attuned to the client's objectives throughout the lifespan of a matter, from investigation through litigation and beyond — for example, monitoring the implementation of settlement terms — to capitalize on advantages, upend setbacks, and ultimately make sure that those objectives are being fulfilled.

**Q: What advice would you offer to young lawyers interested in practicing as a plaintiffs attorney?**

A: I would tell them that if they went to law school because they like to argue, they may want to take stock of some other, more pertinent, personality traits. A willingness to fight hard is important, but they should only become plaintiffs attorneys if they are also resourceful, resilient and indefatigable; those qualities are must-haves. An orderly mind is a plus; if you don't have strong organizational skills, ally yourself with someone who does.

After the advice, I would let them in on a secret of the guild: If you can't be — literally — a rock star, getting paid for making the world a better place is the best work there is. I've met a lot of "former lawyers," but never one who regretted working as a plaintiffs lawyer.

**Q: What's one trend currently impacting your practice?**

A: The increasing resistance of corporations to law enforcement is a trend. At this point, resistance may be an understatement. It's more like a rejection of government oversight. Not so many years ago, corporations accepted the fact that law enforcement played a key role in the regulation of markets and that cooperating with law enforcement was a reasonable price to pay for the chance to compete in fair, open markets. Today, an increasing number of corporations no longer cooperate with investigations and dispute allegations of misconduct on the merits. They now dispute law enforcement's authority to investigate misconduct. They use, or try to use, declaratory judgment actions offensively to preemptively terminate government investigations and prospectively challenge agency enforcement actions. These tactics don't have merit, and are largely unsuccessful, but they consume a lot of resources and waste a lot of time.

For some government offices, that can be a significant obstacle — precisely because their resources and time are limited and the number of responsibilities under their watch is substantial. Of course a basic law of nature is that for every action, there is an equal and opposite reaction. So no one should be surprised that some intrepid state attorneys general have decided to hire outside counsel to assist them. Retaining a firm like mine enables government lawyers to level the playing field when they are taking on

powerful defendants that are willing to spend a lot of money to avoid accountability. We are accustomed to litigating cases for years and are unruffled by the prospect of taking them to trial. The resources and experience that we add to our public clients' efforts ensure that government actors won't be outmatched or outlasted.

**Q: What's one thing defense attorneys don't understand about practicing as a plaintiffs attorney?**

A: Too many defense attorneys seem to view litigation as a zero-sum game and therefore assume that their opponents do, too. But that's not the framework that I — or the government entities that I represent — use when assessing the best course of action in a case.

Public clients have numerous constituencies and their ultimate responsibility is to serve the public good. Public enforcement cases aren't just about righting wrongs; they implement policies. And so, public clients need to view cases from many perspectives and reconcile the competing interests — the legitimate interests — of various stakeholders in every dispute. That's something that my colleagues and I do very well; we're problem solvers working on behalf of clients we believe in who take on cases that matter.

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