

Rising Star: Cohen Milstein's Kalpana Kotagal

Law360, New York (July 18, 2017, 5:52 PM EDT) -- Cohen Milstein Sellers & Toll PLLC's Kalpana Kotagal is dedicated to advocating for equity and diversity in the workplace, including by representing tens of thousands of women who have accused Sterling Jewelers Inc. of widespread gender bias, earning her a spot as one of five employment law practitioners under age 40 honored by Law360 as Rising Stars.

HOW SHE GOT HERE:

Kotagal spent a few years in political organizing before becoming a lawyer and said part of the reason she finds her work on class action employment litigation to be satisfying and enjoyable is that, like organizing, it presents an opportunity to address power imbalances.

"Class action litigation is in some ways the legal analogue of political organizing," she added. "It is a chance to use litigation to achieve systemic change," including by changing the way a company makes hiring or pay decisions, deterring bad conduct on behalf of other companies and helping give employees a more meaningful voice.

BIGGEST CASE OF HER CAREER THUS FAR:

Kotagal is representing current and former Sterling Jewelers employees alleging the jewelry chain giant discriminates against women in pay and promotions. The case, which she described as "historic," presents important, cutting-edge issues about certifying nationwide classes and mandatory arbitration.

The arbitrator overseeing the dispute, which is expected to go trial early next year, has certified a class of roughly 69,000

RISING ★ ★ ★ ★ ★ STAR



Kalpana Kotagal
Cohen Milstein

Age: 39

Home base: Washington, D.C.

Position: Partner

Law school: University of Pennsylvania Law School

First job after law school:

Clerked for Ninth Circuit Court of Appeals Judge Betty Binns Fletcher

women on their Title VII claims, in addition to conditionally certifying a class of women on their Equal Pay Act claims, which more than 10,000 women have opted into, Kotagal said.

She said it's "one of first cases to be certified as a nationwide class" in the wake of the U.S. Supreme Court's landmark 2011 Wal-Mart v. Dukes ruling, which decertified a class of roughly 1.5 million women claiming gender discrimination against the retailer and heightened the bar for class certification.

"We're quite proud of the work we did in discovery and in class certification briefing and oral argument to make that happen," Kotagal said.

OTHER NOTEWORTHY WORK SHE HAS DONE:

As an associate, Kotagal was part of the Cohen Milstein team who represented the women in the Wal-Mart case before the Supreme Court, and she said she feels lucky to have had the opportunity to help write briefs and prepare for oral arguments.

"Obviously the outcome of that case was not what we had hoped it would be at the Supreme Court level, although we continue to litigate the case against Wal-Mart in regional cases all over the country," she said. "Classic Cohen Milstein style — we do not give up."

She has also been collaborating with Dr. Stacy Smith of the Media, Diversity and Social Change Initiative at the Annenberg School for Communications at the University of Southern California on the development of a Hollywood equity clause in the hopes of chipping away at "stubborn" diversity issues that have plagued entertainment industry casts and crews for decades.

"It's an addendum to a contract that calls for relying on a set of best practices for auditioning and casting for on-screen roles and interviewing and hiring for certain off-screen roles in a way that should lead to more underrepresented groups being interviewed and auditioned, and hopefully ultimately being hired as well," she said.

PROUDEST MOMENT AS A LAWYER:

Kotagal said she remembers well the day she learned the arbitrator had certified the Title VII class nationwide in the Sterling Jewelers case, noting that the firm had "felt acutely" the impact of the Wal-Mart decision and had worked tirelessly to craft discovery and briefing with the high court's elevated standard in mind.

"It was incredibly satisfying to know that we had served our clients so well, in terms of being able to understand what that Wal-Mart standard meant and frame a case and succeed in getting a class certified," she said.

ADVICE FOR YOUNG ATTORNEYS:

"You should seek out opportunities to build your core skills," Kotagal said. "You should look for challenging and interesting briefs to be part of, to write. You should seek out opportunities to manage complex discovery and take depositions. You should look for chances to stand up in court. That building

of core skills, I really think that that lays the foundation for the cool things to come.”

--As told to Christine Powell

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2017 Rising Stars winners after reviewing more than 1,200 submissions. This interview has been edited and condensed.

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