

## Plaintiffs Bar Perspective: Cohen Milstein's Betsy Miller

*Law360, New York* -- Betsy A. Miller is a partner at Cohen Milstein Sellers & Toll PLLC and co-chair of the firm's public client practice group in Washington, D.C. Miller represents state attorneys general and municipalities in civil law enforcement investigations and enforcement actions involving consumer fraud and false claims.

Prior to joining Cohen Milstein, Miller served as the chief of staff and senior counsel to the D.C. attorney general and, previously, as counsel on the U.S. Senate Committee on the Judiciary, where she worked for Chairman Patrick J. Leahy, D-Vt. Miller also spent eight years as a litigator for two premier defense firms, where she represented some of the nation's largest companies. Since 2001, Miller has served as an adjunct professor at Georgetown Law School, where she teaches courses on negotiation and mediation.



Betsy A. Miller

Miller is the recipient of Harvard Law School's post-graduate Heyman Fellowship for government service and academic excellence and Harvard Law School's Kaufman Fellowship for public service.

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

A: Working with state attorneys general to bring cases that produce immediate and long-lasting results for vulnerable populations. It's a privilege and a reward. My clients are talented government lawyers who fight every day against deceptive practices in the financial, health care and pharmaceutical industries. Their dedication and creativity fuel my commitment. As a former government lawyer myself, I can't imagine a better job than the one I have now — where I can continue to serve the public interest while also offering resources only available in the private sector.

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

A: I have worked at defense firms and plaintiffs firms, in the government, as a professor, as a mediator and as a professional negotiator. For all lawyers, and really for all successful leaders, the most important skill is communication — and the ability to understand that effective communication is more about asking thoughtful questions and listening carefully than it is about talking. A lawyer who can stay curious and open-minded is better equipped to generate persuasive arguments, to propose creative solutions, and to engender the trust and respect of clients, opposing counsel, and judges. You simply cannot deliver an optimal outcome if you are not listening to what the stakeholders are trying to say.

**Q: Share an example of a case that was particularly challenging, and how you handled it.**

A: I am most excited by the challenges presented by complex, multiparty negotiations. I know it will be a good day if I'm scheduled to strategize about, prepare clients for or participate in, any kind of negotiation. It's like seeing the chess board at the beginning of a game and envisioning all possible moves and strategies. Not everyone relishes the dynamics of a lengthy or heated negotiation, so that's why I encourage my clients and other lawyers to view it as an opportunity to understand what is driving each of the stakeholders.

One of my favorite things is to represent attorneys general in multistate litigation. The last case I settled involved Moody's (one of the nation's largest credit rating agencies), 22 states and the U.S. Department of Justice. I represented a co-lead state and another large state. The settlement yielded \$864 million in payments to the federal and state governments, as well as critical industry reforms that will make the credit rating agencies more transparent and accountable to consumers. After years of litigating, we (the lead negotiators from the states, DOJ and Moody's) locked ourselves in a room for nearly a week to hammer out a path to resolution. Once you get to that critical phase of a case, facades come down and you can really see who you're dealing with as lawyers and what is important to the clients. And very often, the zone of possible agreement is incredibly narrow. So if you don't have the skills to stay curious and creative, you probably won't be able to resolve the case. I'm inherently curious, so that serves me — and my clients — well.

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

A: One of the recent trends in government enforcement work — at the municipal, state and federal levels — is that defendants seem more likely to resist cooperation with investigations and to push cases further into litigation. To the extent this strategy is based on the assumption that government enforcement agencies are unable or unwilling to litigate all the way to verdict, that assumption is incorrect. At the state level especially, there is a growing appetite and skill set for complex litigation. For example, the national mortgage settlement — in which Cohen Milstein's public client practice represented two litigating states against one of the largest banks — provided \$25 billion in overall financial relief to homeowners across the country. States and the National Association of Attorneys General used a portion of this money to fund additional consumer protection lawyer positions and litigation training for assistant attorneys general. This has enabled state attorneys general to expand the number and type of enforcement cases they can undertake.

Meanwhile, President Donald Trump's vision for the federal government involves a drastic reduction in consumer protection and enforcement efforts. State and local enforcement agencies are gearing up for the increasingly important role they must play in protecting consumers, the elderly, the poor and other vulnerable populations. In special circumstances, where we can offer specific expertise and necessary resources to help level the playing field against large corporate actors with extensive lobbying and legal budgets, government entities retain Cohen Milstein's public client practice as their outside counsel. It is our mission to help government clients achieve results that redress and prevent corporate misconduct — and in a manner that maintains an open dialogue with defendant corporations, which often are important contributors to the state's economy.

**Q: Name a plaintiff's attorney outside your own firm who has impressed you and tell us why.**

A: Matthew Budzik, a senior lawyer at the Connecticut Attorney General's Office, is a great example of the talent you're likely to encounter in this new era of increasing enforcement by state and local

governments. Since 2010, I have worked closely with Matt to help lead the state attorney general litigations against Standard & Poor's and Moody's, which resulted in important industry reforms and \$2.2 billion in settlements resolving allegations of deceptive conduct leading up to the financial crisis.

Matt is the consummate lawyer's lawyer — he has the intellectual firepower, composure and creativity that these complex and high-stakes cases require. And it might surprise some defense lawyers to know that Matt — like many other government colleagues on the case — spent countless late nights and weekends to get the job done. Matt was able to marshal nearly two dozen states, over a period of years, towards resolution with multibillion-dollar companies that had successfully beaten many of the private lawsuits brought against them. Matt earned the respect of the states, the U.S. Department of Justice, the corporate defendants and their lawyers. I have no doubt that he could snap his fingers and have a job working for any of these entities. The day after the Moody's case settled for \$864 million, Matt was back at his desk, working on a different case and writing a brief to defend the Consumer Financial Protection Bureau from attack by the new administration. This is the kind of government lawyer — talented, dedicated and mission-driven — who will ensure that state attorneys general can succeed on the front lines of enforcement.

*The opinions expressed are those of the author(s) and do not necessarily reflect the views of the firm, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.*

---

All Content © 2003-2017, Portfolio Media, Inc.

[WWW.COHENMILSTEIN.COM](http://WWW.COHENMILSTEIN.COM)

**COHENMILSTEIN**

Powerful Advocates. Meaningful Results.

Chicago, IL | Denver, CO | New York, NY | Palm Beach Gardens, FL

Philadelphia, PA | Raleigh, NC | Washington, DC