

LAWDRAGON

Lawyer Limelight: Ted Leopold



Photo by Josh Ritchie

By John Ryan

Flint, Michigan. Synonymous with toxic water. Sickened children. And astounding failures by public and private entities all the way up to the Governor's office.

The city's water crisis is also an apt illustration of the level of resources and dedication to achieving restitution and accountability that has become a hallmark of [Cohen Milstein](#).

"I think this was very important for the residents of Flint, many of whom felt like they were not seen or heard by the very people who are there to keep them safe – their government," says [Ted Leopold](#), who is co-lead counsel for the class of plaintiffs who recovered \$600M from the state of Michigan.

The Palm Beach Gardens, Fla.-based partner serves as Co-Chair of Cohen Milstein's Complex Tort and Consumer Protection practices, which as always is playing a lead role in several of the nation's most high-profile tort and environmental disputes. Leopold is also proud of his firm's role handling business-interruption insurance cases arising from the Covid-19 pandemic.

Lawdragon: Can you describe for our readers the mix of work you do within your practice?

Ted Leopold: My work is focused on complex torts, including auto safety, managed care litigation, environmental contamination claims and consumers class actions. Many of our cases often involve novel legal issues or are nationally significant. That said, one of the things that sets Cohen Milstein apart is the level of the firm's practice addressing these types of cases and its strong culture of collaboration, which allows every attorney to learn about cutting-edge new issues and support various litigation matters throughout the firm. As Co-Chair of the firm's tort and consumer practices, I spend a lot of my time drawing on the deep experience and strengths of my colleagues across the firm and brainstorming new ideas to address some of our clients' toughest challenges.

LD: Is there a recent case you can highlight for us?

TL: In August, we reached a partial \$600M settlement in the Flint water crisis litigation. We are proud that nearly 80 percent of the settlement funds will go to impacted minors, with the balance for adults, property and business damages and a special education fund to support children who are suffering the long-term effects of lead poisoning. The agreement is the result of five years of litigation and 18 months of court-supervised negotiations and includes a detailed claims process that will be made available to all victims without any discrimination or favoritism.

The settlement will start to help residents of Flint who were victims of reckless decisions made by governmental officials. Sadly, the Flint community faced devastating health and property injuries as a result. While we can never undo the damage that occurred, we are pleased that we were finally able to secure this long overdue measure of justice.

A little background on the case for your readers – beginning in 2014, Flint, Mich., city and Michigan state officials, including Governor [Rick] Snyder, and engineering firms under their management, blatantly failed to provide the more than 90,000 Flint residents and businesses with safe drinking water, instead providing them with poisonous, lead-tainted water from the Flint River.

This water – which had concentrations up to 880 times the EPA's legal limit in one instance – made its way into homes, businesses, and eventually into the bodies of Flint residents, leading to an outbreak of Legionnaires and other significant health complications, particularly in Flint's children, who are more susceptible to long-lasting effects of lead poisoning than adults.

It wasn't until shortly after deposing Snyder in June 2020 that the State agreed to settle. Litigation against the engineering firms and the Environmental Protection Agency is ongoing.

LD: What have been some of the challenges of this litigation?

TL: To be clear, the litigation is not over. As I said, we still have ongoing cases against the EPA and two private engineering firms whose professional negligent advice led to widespread lead poisoning.

In this case, it was the vastness of the potential damages that was hard to wrap our arms around, given the size of the class; the sub-classes involved, particularly of children and their health issues; and the amount of time that has transpired since the initial contamination in 2014. Some of the children who were poisoned so many years ago are now adults. There were a multitude of vitally important and complex issues that touched on health, environmental testing, and racial discrimination, not to mention fraud.

There was also the matter of convincing the court to reinstate former Michigan Governor Snyder as a key defendant in this class action with new evidence from a parallel criminal case against Michigan health officials. I believe that was a pivotal moment whereby the court sided with us that Snyder's office not only knew about the health consequence, but covered it up, and "misled" Flint residents and "even encouraged them to continue to drink and bathe in the water."

I was fortunate enough to work with a wonderful group of attorneys and together we were able to find creative ways to quickly and deftly navigate these hurdles.

LD: In addition to some of the terms of the settlement, what do you think the impact of the litigation will be?

TL: First and foremost, it lets our clients and the public know that the judicial process is available to everyone, regardless of the size of the private or public entity they are taking on. The courts create a level playing field – everyone has full and equal access to pursue justice under the law.

Longer term, this reinforces the notion that cities and states cannot just deny their constituents access to clean water. All people are entitled to clean water, and this issue of water contamination, where private or public entities think they can get away with harming certain communities, is becoming a more salient issue.

LD: What other types of cases are taking up your time today?

TL: In addition to the issues we confronted in Flint, another area we are really focused on is PFAS (per- and polyfluoroalkyl substances) litigation, where we have seen corporate indifference and negligence to water safety. Due to the callous nature by which corporate America has failed to understand or respect our environment, years of dumping toxins or "forever chemicals" into our water has finally caught up to our communities.

Where we see wrongs, we try to right them, and I am proud that Cohen Milstein is at the forefront of PFAS litigation. We have joined with three other law firms to form a unique and powerful working group that brings together the skills and experience necessary to represent communities facing difficult decisions about how to respond to PFAS contamination.

For instance, we are currently co-lead counsel on the Cape Fear River environmental contamination class action in North Carolina, where we allege DuPont illegally discharged these "forever" chemicals into the river and lied to government regulators about its safety measures. In

addition to this case, we are working with multiple cities and municipalities who have experienced contamination in their water systems.

We are laser focused on how corporations treat the public and we are working vigorously within the courts to ensure the rules and regulations that are designed to keep our environment and people safe are enforced. When PFAS contamination does occur, we want to ensure that damages are paid by the companies responsible, not the impacted communities.

LD: Is there a matter or client in your career that stands out as particularly significant, or one that is more memorable for certain reasons?

TL: Aside from Flint, I would say the case brought on behalf of Caitlyn Chipps against Humana Health Insurance has had a lasting impact. This was the first of its kind managed care abuse litigation in which we successfully proved that Humana had denied care to Chipps, a disabled child with cerebral palsy. The American Association for Justice has called it one of the most influential lawsuits to mitigate corruption in the health care industry and it involved over 300 motions to compel to get documents from Humana. I am particularly proud of how the *Chipps* litigation brought to the forefront the many unethical practices in the managed care industry. As a result of the *Chipps* litigation and verdict, many of the major managed care companies began to look at their medically necessary practices.

LD: Can you tell us more about it?

TL: The background on the *Chipps* case was a textbook matter about the wrongs of the managed care industry. Caitlyn was born with cerebral palsy and she regularly received physical, speech and occupational therapy under Humana. Under a new policy, she became a part of a medical case management program. Then one day, Humana sent a letter to Caitlyn's parents saying that she was no longer a part of a medical case management program and she would no longer receive physical, speech or occupational therapy. Period.

Through discovery, we came to find out that Humana worked with Coopers & Lybrand to save over \$80M in the southeastern region of the United States. So, they developed a business model on how to do that. Their solution was to end their case management program for kids they considered "static," that is, kids who were not running into hospitals all the time. So, one day Humana threw out over 100 catastrophically ill kids like Caitlyn.

This case really served as a springboard, and we have expanded our managed care abuse litigation work beyond traditional managed care and health insurance companies to cases against workers' compensation insurance carriers who intentionally interfere in the provision of care and treatment to injured workers, which is a unique area that many law firms are not involved with.

Another first was our work related to the Takata airbag litigation when we represented a Florida woman who, tragically, was paralyzed from the neck down when a Takata airbag exploded in her car. Our work was groundbreaking in that we were the only firm to take depositions from high-ranking officials in Japan. The disclosures we uncovered helped further other litigation against the company.

What these cases show is that our firm is always focused on representing the underdog. We stand up for individuals against corporate greed and other bad actors, and the beauty of this type of litigation is that it demonstrates how the judicial system can put everyone on equal footing.

LD: Can you share some strategic plans for your practice or firm in the coming months or years?

TL: We are always looking to see how we can try and bring about justice for those who have been harmed. Right now, we are one of the leading firms in the country handling business interruption insurance litigation as it relates to Covid-19. This is important work that will have a direct impact on small businesses and is another example of misconduct by the insurance industry. In this instance, a large portion of the industry appears to have decided to not honor their commitments to these small businesses, which is having devastating consequences for families trying to navigate the economic fallout of this pandemic.

We are also proud to be doing important work fighting sexual abuse, trafficking, and domestic violence. The firm has a team of preeminent attorneys that specialize in this area. With each new case it is hard to believe there is so much of this conduct occurring, but our team does amazing work protecting the rights of those who have suffered from this horrible abuse.

LD: There are many high-quality firms out there. What do you do to try to “sell” about your firm to potential recruits – how is it unique?

TL: Our results speak for themselves, but what I think distinguishes our firm is that we believe deeply in the justice system and the work we are doing, and we put our clients first above all else.

Our goal is always to bring the strongest measure of justice for our clients, no matter who we are up against. Since we are particularly focused on helping underserved or vulnerable communities who do not always have a voice, we must be fearless advocates in the courtroom. Our clients who have worked with us know that we will never back down from a fight.

I believe we have brilliant lawyers at our firm. But, what sets them apart is that they are true advocates for creating positive change in our communities and helping those less fortunate. It is rare to find a firm that has both. This is not just a job for us – it is personal. We believe deeply in the work we are doing.

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