

Daily Journal

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Top WOMEN LAWYERS 2020

Michele D. Johnson

With a securities class action trial looming, Puma Biotechnology bet the house on Johnson.

She represented the Los Angeles-based company and its CEO, Alan Auerbach, in a case alleging that statements made in connection with its July 2014 announcement over positive results from a breast cancer drug clinical trial were false and misleading and led to two stock drops the next year.

With a market cap less than plaintiffs' attorneys estimated damages of more than \$1.2 billion, a loss could have led to Puma folding entirely.

"For sure, we felt the pressure," the global chair of Latham & Watkins litigation department said. "We felt the weight of trying this for the company, for their employees, for the cancer drug that had been FDA approved and was treating cancer for people."

Most securities class actions are rarely tried to a verdict because of potential company-ending exposure, but Johnson said plaintiffs' attorneys refused to offer a reasonable settlement figure.

"They made the decision very easy for my client to take this to trial. Their demand was just not possible."

In a case-defining order shortly before trial, Johnson secured summary judgment on seven of 11 statements plaintiffs alleged were misleading. She later convinced a Central District jury to return a unanimous verdict in her client's favor on three of the four remaining challenged statements, allowing plaintiffs to recover less than 5% of their claimed damages.

The trial was the first federal securities class action to reach a verdict in nearly 10 years. *Hsu v. Puma Biotechnology, Inc.*, 15-cv-00865 (C.D. Cal., filed June 3, 2015).

Just seven weeks before trial, Johnson was also brought on to lead the U.S. Soccer Federation's defense in an equal pay case brought by the U.S. Senior Women's National Team alleging its members are not paid as well as players on the Men's National Team. Plaintiffs sought \$67 million in back pay and punitive damages.

Replacing former counsel, Johnson was retained in March amid the pandemic as lead trial attorney.

"Prior defense counsel decided to make arguments that [the women's team] had a different level of skill, meaning lower skill. We said no — it's inconsistent with the federation's values and our values to say that."

Johnson withdrew those arguments filed by prior counsel and reframed her client's defense to argue that the women's team makes more than the men's team in total compensation and on a per game basis, that the women's team rejected the men's team's compensation model during collective bargaining in favor of a more stable model with guaranteed salaries and benefits and that any differences in potential bonuses is due to the vast differential in World Cup prizes set by FIFA, not the governing body of U.S. Soccer.

The veteran trial attorney secured in May denial of plaintiffs' summary judgment motion. U.S. District Judge Gary Klausner also granted the defense's summary judgment motion on nearly of its compensation claims. *Morgan v. United States Soccer Federation*



LATHAM & WATKINS LLP
COSTA MESA

Practice Type:
Trials, litigation

Inc., 19-cv-01717 (C.D. Cal., filed March 8, 2019).

For both of her major victories, Johnson emphasized the importance of finding the right talent.

"Everyone on the team brought something to the case and the client. Everyone contributed."

— Winston Cho