

Daily Journal

JUNE 21, 2023



*Michele D.
Johnson*

Latham & Watkins LLP

•
Los Angeles

•
Securities Litigation

When Michele D. Johnson became the global chair of Latham's litigation and trial department in 2019, the department comprised about 700 lawyers. Now, it has more than 1,000 lawyers.

It grew by about 10% just over the last year, she said.

But she said the department has not grown just to get bigger. "We have just grown opportunistically with the right people," she said. "That's happened across geographies [and] across practice groups."

Nor are the 1,000-plus litigators "siloe'd" strictly in their practice specialty. "The whole is greater than the sum of the parts," she said.

Demonstrating that point, Johnson has tapped Latham specialists from several fields to help her in some of the complex securities class actions she litigates.

That was true for her most recent trial in March. The team won a \$2.4 million verdict in New York state court for a hedge fund founder and his company. *Beach v. Touradji Capital Management LP*, 603611/2008, (N.Y. Cnty. Suprm. Ct., filed Oct. 21, 2008).

That victory only came after specialists in commercial transactions and appeals convinced the court to throw out the \$90 million verdict against her client from a trial put on in 2019 by previous counsel. "So it was a big turnaround," Johnson said about her team's success in the retrial.

In February, she won a motion to dismiss a securities class action against direct-to-consumer hearing aid company Eargo. To do that, Johnson worked closely with white-collar defense attorneys because the class plaintiffs' claims centered on an insur-led audit of the company's billing practices and a brief federal criminal investigation and settlement. *Chung v. Eargo Inc.*, 3:21-cv-08597 (N.D. Cal., filed Nov. 4, 2021).

"That's another example of cross-practice, cross-office, cross-geographies working together," Johnson said about the case.

She won an important victory for Peloton in March to dismiss a securities class action by investors who claimed the home-exercise company should have predicted that its sales would drop as the pandemic eased. *City of Hialeah Employees Retirement System v. Peloton Interactive Inc.*, 1:21-cv-09582 (S.D. N.Y., filed Dec. 2, 2021).

Johnson said the case was one of a number of similar investor complaints about post-pandemic declines that she said simply did not state a case for securities fraud. "These were companies doing their absolute best to plan for demand, to meet demand [and] to provide the customer service and timeliness they had committed to their customers to provide," she said.

The ruling can be used as precedent in other COVID-related cases.

Johnson said she can't discuss what may be her most intriguing cases. She and her team represent Tom Brady, Shaquille O'Neal, supermodel Gisele Bündchen and comedian Larry David in class actions over their promotion of the failed cryptocurrency exchange FTX.

Prior to the pandemic, Johnson played keyboards in an all-attorney rock band called Diversion. Now, the band is reforming under a new name. "We're getting the band back together," she said.

— Don DeBenedicis