

MVP: Latham's Michele D. Johnson

By Sarah Jarvis

Law360 (September 7, 2022, 2:02 PM EDT) -- Michele D. Johnson of Latham & Watkins LLP's litigation and trial practice helped secure a rare jury trial verdict in a \$400 million investor suit against NextGen Healthcare, earning her a spot as one of Law360's 2022 Securities MVPs.

HER BIGGEST ACCOMPLISHMENT THIS YEAR:

Johnson, who is the global chair of Latham's litigation and trial department, said her biggest accomplishment over the past year is the complete defense verdict she helped secure for NextGen Healthcare, its founder and its former CEO.

In July 2021, a California jury cleared the company after an investor and former board member claimed he was duped out of selling his shares due to the company's allegedly false statements before disappointing financial results led to a stock drop, purportedly causing him \$400 million in damages. Latham said at the time that the case marked the first securities "holder's claim" to go to trial in the U.S. in 86 years.

For Johnson, the team of attorneys working with her on the case highlighted the best of what Latham has to offer.

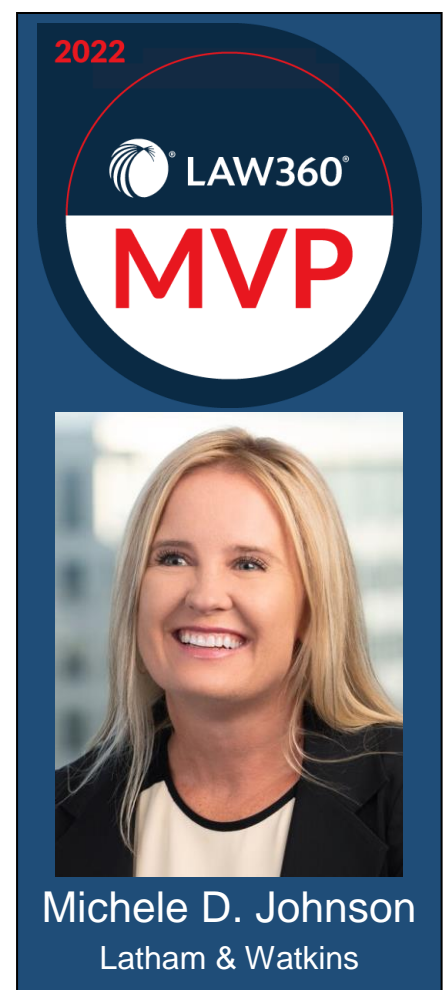
"So rarely do these securities cases get tried to a jury that it was a momentous and memorable moment to get that verdict," Johnson said. "Not just for the clients, and the case, and the win, but really for the team."

Johnson noted various associates took witnesses and important arguments in the case, which she said had been pending for eight years. She said some team members weren't at Latham when the case was filed, so they really "grew up" with the matter.

HER BIGGEST CHALLENGE THIS YEAR:

Johnson said her biggest challenge over the past year has been maintaining connections with people during the pandemic.

She said the NextGen case presented one such example, when the courthouse implemented a mask



mandate in the middle of the trial. That meant she had to complete her examinations and closing arguments in a mask, while all the jurors were also masked.

"That's just an interesting challenge — to maintain the connection with the jurors that are going to decide that entire case, while masked," Johnson said.

Johnson added that keeping in touch with her team while everyone works remotely has also been challenging. She said that while the firm has done a great job maintaining its culture and commitment to training younger lawyers, mentoring the next generation of attorneys has required a lot of attention and creativity.

WHAT MOTIVATES HER:

Johnson said she's motivated by working as part of a team, adding that practicing law wouldn't be as fulfilling on her own.

She said achieving clients' objectives and notching wins in court while handling unique legal challenges in high-stakes environments is all the more satisfying when it's done as a team.

"It just magnifies the accomplishment," Johnson said. "It magnifies the enjoyment."

She added that it's great to see others succeed and hear that their careers are better after accomplishing things as a team.

HER ADVICE FOR JUNIOR ATTORNEYS:

Johnson advised junior attorneys to invest in themselves and their careers. While she joined Latham out of law school 24 years ago, she said that kind of career path is becoming more unusual. And if they aren't careful, junior attorneys can get lost on circuitous career paths, she said.

"If you're bringing your best, and doing your best work, and finding every training opportunity that you can, and making all the connections and the broadest networks that you can from the first minute of your career, you'll be the better for it wherever you end up," Johnson said.

She said that while Latham offers training opportunities for its junior attorneys, it's up to them to take advantage of the opportunities. And she encourages younger attorneys to do just that, calling it an investment in their long-term success.

OTHER NOTABLE CASES SHE'S WORKED ON:

Johnson also helped attain a summary judgment win for the U.S. Soccer Federation in its equal pay dispute, which led to landmark collective bargaining agreements announced in May, bringing the U.S. Women's National Soccer Team on equal footing with its male counterpart.

February's settlement in the equal pay suit was beneficial for both parties, Johnson said, noting that U.S. Soccer and the women's team were on the same side in promoting women and girls' soccer and achieving equal pay. She said the litigation came down to a particular definition of equal pay.

The settlement was "as interesting to work on as it was newsworthy," Johnson said.

She further highlighted successes in defending companies that experience stock drops after short-seller reports. Johnson led the team that defended security screening machine manufacturer OSI Systems in a

securities class action over such claims, helping to secure a dismissal in a California federal court and an affirmation from the Ninth Circuit in March.

And she represented Enphase Energy Inc. in a similar securities class action, with a California federal court tossing claims against the solar energy company in August 2021.

"We've been successful in convincing the federal courts that a short seller that repackages public information and speculates that the company is overvalued is not the revelation of securities fraud," Johnson said. "It does not indicate that there was a misstatement or material omission, and it's not a corrective disclosure, because the short seller is just giving their own opinion about already publicly available information."

She added that those wins are "particularly satisfying just given the rash of short-seller attacks that companies have been experiencing."

— *As told to Sarah Jarvis.*

Law360's MVPs of the Year are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals, and complex global matters. A team of Law360 editors selected the 2022 MVP winners after reviewing more than 900 submissions.