

Michele D. Johnson

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s global chair of Latham & Watkins LLP's 850-member litigation and trial department, Michele D. Johnson keeps plenty busy.

"Litigation has increased across the board, even outside of Covid cases," she said. "That includes all the areas in which we operate: antitrust, white collar, securities, privacy—they're all only going up. It reflects increased administrative and regulatory enforcement in the U.S. and overseas plus the number of newly public companies that get attention. There's also the backlog of cases that were on hold during the worst of the pandemic."

Johnson's own thriving litigation practice included last July's big defense win for NextGen Healthcare Inc. and its founder and former CEO in a rare securities "holder's claim" case—the first ever tried in California and the first since 1975 when the U.S. Supreme Court removed federal grounds for such suits. Hussein v. Razin et. al., 30-201300679600-CU-NP-CJC (Orange Co. Super. Ct., filed Oct. 4, 2013).

The matter arose when the company's second-largest shareholder and former

sell shares was prevented by the defendants' false statements. The plaintiff, Ahmed D. Hussein, had amassed 9.33 million shares over 30 years, waged five failed takeover attempts and sued after he lost his final proxy fight, claiming more than \$400 million in damages plus punitives.

"We thought, oh, boy, what a challenge," Johnson said. "We knew we'd be making law. That was exciting and fun." Jurors took only four hours to agree that NextGen's statements were neither fraudulent nor that Hussein had relied upon them. The win was one of The Daily Journal's Top Verdicts of 2021.

Hussein's new trial motion was denied in November 2021, Johnson said an appeal is almost certainly imminent.

"There's been a 30-year feud behind this, so I'm sure there'll be an appeal. We'll be able to argue that such holder's claim suits shouldn't exist at all. I've been drafting my appellate brief in my mind."

She added she built rapport with jurors in part due to the influence COVID-19 had on the proceedings. "We started the trial without masks, but then there was board member alleged that his plan to an outbreak in the courthouse and we



had to put them on. Then you have only your eyes and body language to communicate. So we found other ways to connect, in part through the difficult situation we were going through together."

As the pandemic hopefully wanes, Johnson is eager to get back to her role as keyboard player and sometimes backup vocalist in the all-Latham rock band Diversion, which has taken top prize at the Law Rocks! battle of the bands and raised more than \$150,000 for charity.

"Covid put the kibosh on that, but we'll be back," she said.

JOHN ROEMER