Rising Star: Covington & Burling's Emily Ullman

By **Mike Curley**

Law360 (June 21, 2021, 2:32 PM EDT) -- Covington & Burling LLP's Emily Ullman has defeated class certification in the sprawling opioid multidistrict litigation and ended another MDL over allegations that Cialis and Viagra cause melanoma, earning her a spot among the product liability law practitioners under age 40 honored by Law360 as Rising Stars.

THE BIGGEST CASE OF HER CAREER:
The win against certification in the opioid MDL was part of one of the biggest cases Ullman's worked on, she told Law360, adding it's a particular challenge leading the litigation efforts for a group of more than 20 defendants.

"Whenever you have 20 co-defendants in a joint-defense group filing one paper, that is always a unique and challenging proposition," she said. "I was ultimately really proud of the work we produced collectively, and honored to be one of the folks coordinating it."

She highlighted when she succeeded in February at blocking class certification for the guardians of infants born to mothers who had taken opioids during pregnancy who were seeking a medical monitoring fund.

The plaintiffs put forth novel theories, she said, a number of which had not been tested recently, pushing Ullman to bring older cases and cases from other jurisdictions before the court — an effort that ultimately convinced the **court to agree** that the class wasn't suitable for certification.

OTHER BIG CASES THIS YEAR:
Ullman also represented Eli Lilly in an MDL over allegations that erectile dysfunction drugs Viagra and Cialis cause melanoma, and succeeded in April 2020 at getting the case thrown out after successful motions to exclude the plaintiffs' causation experts.

Emily Ullman
Covington & Burling

Age: 36
Home base: Washington, D.C.
Position: Partner
Law school: Harvard Law School
First job after law school: Law clerk to Judge Debra A. Livingston

As a product liability attorney, she said, a big part of the job is dissecting the science and medicine behind a plaintiff's case and presenting it to the court to counter the allegations against her clients.

In this case, she said they were able to demonstrate that the scientific community didn't think there was any merit to the allegations.

"Ultimately, a lot of MDLs these days wind up settling, and I think that is the expectation of many judges, as well as attorneys, that these cases will settle," she said. "I was very proud of the fact that we were able to demonstrate that it was not a meritorious case, and that it could be, and should be, actually decided in our client's favor."

HER PROUDEST MOMENT:

While she spends much of her time representing pharmaceutical juggernauts, Ullman said her proudest moment came during her pro bono work while representing Maine Family Planning in its suit challenging a so-called "gag rule" by the Trump Administration that would limit the amount of information that federally funded health providers could give patients about abortions.

While the case had been dismissed in June 2020, Ullman and her team were on appeal, and she was proud to fight for women's rights and health care, she said. The Biden administration earlier this year announced that it intended to revoke the rule.

"While ultimately it looks like relief in this case is going to come from the change in the administration and not necessarily the judiciary, having the chance to use the courts to defend our clients' work, protecting women's reproductive rights and access to health care, is something I take tremendous pride in," she said.

She added that reproductive rights have always been important issues to her, and there's still work to be done on that front in the coming years.

WHAT MOTIVATES HER:

Ullman told Law360 that she takes a lot of motivation from the trust and partnership she's received from both her mentors and clients over the years, as they look to her as a partner and source of advice and ideas.

"I feel really passionately about the work that our clients do," she said. "Largely I work for clients who create lifesaving and innovative products, and there are a lot of misconceptions about them that drive these lawsuits. And I feel really strongly about having the chance to go out and correct some of those misconceptions."

She said she also feels motivated by the prospect of pitting her legal skills against her opponents, saying, "You never want to bring anything less than your best work to those kinds of situations."

ON PRODUCT LIABILITY IN THE NEXT 10 YEARS:

Ullman said she expects her area of law to change in a few ways in the coming years, especially as the medicine industry itself changes. She said as medicine becomes more individualized and digital — such as incorporating artificial intelligence into treatment — she'll be facing any number of new legal theories and a number of procedural and legal challenges.

"How do you do a mass tort when everyone's got a product treating him or her differently?" she said.

In addition, she said she expects the product liability space to expand globally. As it stands, the U.S. is something of an outlier in how it handles torts in that space, but courts in Europe are making moves that will bring them closer to the U.S. in that respect.

While it's not yet prevalent on a large scale across the pond, Ullman said there's been recent rulings on class actions in Europe that might allow those kinds of suits to take off, with product liability litigation likely to follow suit and become more frequent across the world.

"Smart attorneys are looking globally to see, where is the next frontier for folks to bring lawsuits against our clients?" she said. "We in the defense bar will ultimately be there on the other side as well, educating a new court system, educating new jury pools and breaking a lot of new ground."

— As told to Mike Curley

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2021 Rising Stars winners after reviewing more than 1,400 submissions. Attorneys had to be under 40 as of April 30, 2021, to be eligible for this year's award. This interview has been edited and condensed.