

Rising Star: Labaton Sucharow's Kellie Lerner

By **Jesse Greenspan**

Law360, New York (March 14, 2011) -- Instead of waiting for cases to come to her, Kellie Lerner of Labaton Sucharow LLP has actively investigated allegations of anti-competitive conduct in the cement, silver futures and other markets, which, along with big settlement wins, earned her a spot on Law360's list of five competition lawyers under 40 to watch.



Lerner, a 34-year-old associate in Labaton's New York office, said that only about 10 percent of her investigations lead to complaints, since she has to determine not only whether something is illegal but also whether she has confidence in a successful outcome.

"I really delve into it and try to figure out whether there is something awry there," Lerner said.

In one instance, she spent months speaking with insiders — including a whistleblower who used to work in the London office of Goldman Sachs Group Inc. — before launching a proposed class action that accused JPMorgan Chase & Co. and HSBC Holdings PLC of collaborating to suppress the price of silver futures contracts by amassing "enormous" short positions in Commodity Exchange Inc.

The suit, which sparked at least a half-dozen follow-on cases, was consolidated last month in the U.S. District Court for the Southern District of New York.

"It's yet another example of financial fraud in the market amongst players that we see as repeat violators," Lerner said.

Another time, she investigated and ultimately filed a proposed class action alleging CEMEX and other cement companies schemed to fix the price of ready-mix concrete throughout Florida. That suit, which prompted an investigation from the Florida attorney general's office, is still pending.

In addition to conducting investigations, Lerner helps draft initial complaints, takes depositions and manages discovery, among other things. She was on the litigation teams that obtained \$52 million in settlements in *In re Puerto Rican Cabotage Antitrust Litigation* and more than \$22 million in settlements in

In re Flat Glass II Antitrust Litigation.

She further assisted in defeating Abbott Laboratories' motions for summary judgment in a case that accused the pharmaceutical company of illegally quadrupling the price of Norvir, a drug used to boost HIV medications, according to the firm. That case eventually settled.

On the pro bono side, Lerner has provided assistance to the Lawyers' Committee for Civil Rights Under the Law and the AARP. After her mother died of lung cancer, she also formed her own charity, Roseann's Gift, which is dedicated to raising money for lung cancer research and awareness.

"I've been given a diverse range of assignments and cases to work on, and I've received a tremendous amount of mentoring and nurturing in terms of professional development," Lerner said.

Hollis Salzman, managing chair of Labaton's antitrust practice group, touted Lerner's attributes, saying she had a firm understanding of U.S. antitrust law, a tremendous work ethic, maturity beyond her years and the confidence to take charge of any assignment.

"She is a perfectionist in every way. Sometimes I fear when she looks at my work," Salzman joked.

Salzman said that if she had to trust someone with an assignment — and know it would get done right and with added value — she would give it to Lerner.

"She is an exceptional lawyer, and I think that she will make a difference in the bar going forward," Salzman said.

Lerner initially became interested in antitrust law after her first year at Rutgers School of Law, when she took a job in the New York attorney general's office's antitrust bureau. At that time, she was introduced to some of Labaton's partners, and the following year she received a summer associate position there.

During her third year of law school she was a law clerk for the roughly 60-attorney firm, and she became a full-time associate after graduation.

"I'm one of the few people who have been at the same place my entire career, but it's because I was lucky enough to get the right fit from the start," Lerner said.

The mother of two sons — one 21 months old and the youngest 1 month old — added that her sympathies have always been with the plaintiffs' side and that she planned on sticking with antitrust law.

"I've built my career around it," she said.

--Editing by Lisa Uhlman.

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