

Rising Star: Gibson Dunn's Molly Senger

By Braden Campbell

Law360 (July 7, 2020, 3:14 PM EDT) -- Molly Senger has become a go-to litigator under the tutelage of Gibson Dunn & Crutcher LLP's crack team of employment attorneys, helping Ford beat class claims in a sprawling sexual harassment suit to earn a spot as one of five employment law attorneys under age 40 honored by Law360 as Rising Stars.

THE BIGGEST CASE OF HER CAREER:

Years of hard work paid off for Senger last summer when she helped Ford Motor Co. avoid class claims in a suit claiming the company tolerated rampant sexual harassment at two Chicago plants.

"I've been working on the case for about five years, so from shortly after the complaint was filed through class discovery and class-related expert discovery, and two rounds of class certification briefing," Senger said.

The suit, which was filed in late 2014, says Ford violated Title VII of the Civil Rights Act and other laws by subjecting women at its Chicago assembly and stamping plant to catcalls, groping and inappropriate comments by co-workers and bosses.

Dozens of named plaintiffs asked the Northern District of Illinois in late 2017 to certify a class of about 2,000 women who have worked at the plants since 2012. U.S. District Judge Robert Dow denied the class certification motion in September 2018 over concerns about the lead attorney's history of misconduct, but gave the workers another shot.

The plaintiffs filed for class certification again in November 2018. This time, Judge Dow said the case wasn't fit for class-action treatment in an August 2019 decision.

"Last summer the district court denied class certification in a really great opinion that adopted virtually all the arguments we made in our brief," Senger said.



Molly Senger
Gibson Dunn

Age: 36
 Home
 base: Washington, D.C.
 Position: Of Counsel
 Law school: Harvard
 Law School
 First job after law
 school: Associate
 at Latham & Watkins
 LLP

WHY SHE'S AN EMPLOYMENT ATTORNEY:

While it's clear now that employment law was a perfect fit for Senger, it was by chance that she ended up on this path.

Senger started her career as a generalist at Latham and later clerked for D.C. Federal Judge John Bates before joining Gibson Dunn as a third-year associate. Her first case in the new gig was a trade secrets dispute.

"It was such an interesting case, had such interesting facts, a great associate team, and I got to do really substantive work starting right off the bat as a junior associate," Senger said.

Senger, who describes herself as a "people person," said she's stuck with employment law because people are front and center: "It's all about cases with interesting facts, interesting people, learning their stories," she said.

And it's not just the people in disputes who motivate Senger: Being part of the labor and employment practice at Gibson Dunn has allowed her to work alongside some of the top employment defense attorneys in the country. She worked under Gibson Dunn labor and employment practice co-chair Jason Schwartz in her first case, and has worked closely with him since. She also counts among her mentors former Gibson Dunn partner Eugene Scalia, who left his post last year to become Secretary of Labor.

"I'm really lucky to have learned from just the best labor and employment lawyers out there," Senger said.

THE BIGGEST CASE SHE WORKED ON LATELY:

Senger is currently representing Lowe's in a high-stakes wage dispute she described as a "very fun and exciting" case.

A store manager sued the hardware retailer in the Western District of North Carolina, alleging the company violated the Fair Labor Standards Act by making managers perform work off the clock, including by communicating with their bosses via messaging apps. After winning conditional collective certification under the FLSA claim, the workers' attorneys filed parallel state law suits in 18 federal courts around the country, and Senger's team sought to consolidate the cases in a multidistrict litigation.

The sprawling dispute posed a unique challenge to Senger's team when the deadlines for filing the retailer's motions to dismiss fell on the same day in the state-law suits.

"We put a team together, in place, and were ready to file these 18 motions to dismiss," but the plaintiffs' attorneys agreed "at the 11th hour" to pause deadlines while the Judicial Panel on Multidistrict Litigation considered whether to combine the cases, Senger said. Her team will make their case to the panel on its July 30 sitting, she said.

"[The case has] been challenging and interesting, too. It was my first case where I've worked on an MDL ... and it sort of illustrated why you have an MDL," she said.

OTHER CASES SHE'S BEEN INVOLVED WITH:

Senger also played a lead role for a Gibson Dunn team that spared UBS an age bias class action by sending the dispute to individual arbitration.

Two former employees sued the financial services giant and several subsidiaries, accusing them of violating federal law by targeting older workers in a series of layoffs. Senger's team sought to send the dispute to arbitration per agreements the workers had signed, but the Northern District of Illinois denied the motion under the Seventh Circuit's ruling in *Lewis v. Epic Systems*, which said workers can't sign away their rights to file and join class actions.

UBS appealed the ruling to the Seventh Circuit. The U.S. Supreme Court reversed *Lewis* in a blockbuster June 2018 ruling, and a year later Senger's team persuaded the district court to send the dispute to arbitration.

"After a long and hard-fought battle, [we] finally got it dismissed," she said.

In another case, Senger spared UBS an eight-figure payout to a former executive who said the company shorted him on a retirement bonus. She litigated the case with Scalia before the Financial Industry Regulatory Authority, which decides disputes between registered brokers and their employers.

"It was the second FINRA arbitration I've worked on, but I got to do direct examination of several witnesses, which was really exciting," Senger said. After a week-long trial, the panel ruled for UBS on all claims.

"[The executive] was seeking, in total, \$15 million in damages and ended up getting zero," she said. "That was really exciting and fast-paced, and a really fun case to work."

— *As told to Braden Campbell*

Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2020 Rising Stars winners after reviewing more than 1,300 submissions. Attorneys had to be under 40 as of April 30, 2020, to be eligible for this year's award. This interview has been edited and condensed.