

DAILY BUSINESS REVIEW

PROFILES IN LAW

Defending Against Anti-Corporate Sentiment, Shook Hardy’s Hildy Sastre Talks Strategy

by Lidia Dinkova

In a world where public sentiment tends favor the underdog, Hildy Sastre is one of the litigators defending that someone or something bigger.

She defends cigarette manufacturers, pharmaceutical companies and medical device makers against individual claims that they were wronged by the corporate giants.

“We face that in every case. In the work that I do, I am always inevitably standing up on behalf of a very large company, and there’s almost always a single individual on the other side,” said Sastre, administrative managing partner at Shook, Hardy & Bacon in Miami.

Plaintiffs attorneys are likely to portray a David-and-Goliath story at trial, she said.



Hildy Sastre, a litigator in Miami, said successfully defending corporate giants starts at jury selection.

How does Sastre overcome this? It starts at jury selection.

“You have to make sure you are getting people that are willing to be fair to a corporation, that are willing to wait and listen to the evidence coming from both sides, not just the plaintiff. You need to make sure that you seat jurors that are not going to make decisions based upon emotion or any preconceived biases that they may have, including things like anti-corporate sentiment, which is ... very much alive and well today,” she said.

Next, Sastre presents details that plaintiffs attorneys didn’t offer in a way that lets jurors know they weren’t getting the whole picture and adding an explanation for what happened, she said.

“Jurors are always looking for why. There’s got to be some explanation for what is happening and why it happened that is a road that does not lead to your client,” she said. “Obviously, you don’t have that in every single case but ... you’ve got to provide some basis, some off-ramp where a juror who is willing to listen to

HILDY SASTRE

Born: Los Angeles, 1970

Children: Connor and Tyler

Spouse: Michael Sastre

Education: Georgetown University, J.D., 1994; Florida State University, B.A., 1991

Experience: Partner, Shook, Hardy & Bacon, 1998-present; Associate, Anderson, Moss, Sherouse & Petros, 1994-1998

both sides of the evidence is willing to put aside emotion and decide the case based upon either a lack of causation or that there is some alternative cause for what occurred.”

This worked for Sastre when Kalamazoo, Michigan-based medical technology company Stryker Corp. was sued following the death of William Cavanaugh during lung-removal surgery. Cavanaugh’s widow and son each asked for \$20 million alleging the Stryker Neptune 2 surgical waste removal device used during the surgery caused Cavanaugh’s death.

Sastre, who together with Shook Hardy Miami managing partner William Geraghty led the defense, successfully argued in St. Lucie Circuit Court that Cavanaugh died because of a nurse’s error. The jury issued the verdict for the defense June 1.

There’s another strategy to defending big corporations. It depends on the dollar damages being sought — if it’s high, then it might work in favor of the defense, she said.

“Oftentimes what I find is that plaintiffs tend to be overreaching in their request for damages,” Sastre said. “I think that sometimes those numbers can actually offend some juries. ... I think those are numbers that if you present a coherent meaningful defense, in light of that, ... juries tend to see the case is about money and that the lawyers are overreaching.”

What does this mean for attorneys filing \$50 million or higher lawsuits against Sastre’s clients?

“Let them do it,” she said. “They become numbers that I think oftentimes work against plaintiffs’ own interests.”

OTHER SUCCESS

Of all the cases Sastre has successfully tried, two others stood out in her mind during a recent interview.

In 2016, she was part of the team that successfully defended Marlborough, Massachusetts-based medical device maker Boston Scientific Corp. in a trial in Jackson County, Missouri.

Eve Sherrer sued Boston Scientific and Murray Hill, New Jersey-based medical device maker C.R. Bard, which was represented by Greenberg Traurig, seeking \$28 million and alleging their transvaginal mesh were defective and caused her pain and other problems.

This is one of many pelvic mesh cases around the U.S. filed by women blaming the implants for pain, incontinence and painful intercourse, Sastre said.

“They are sensitive issues, and because of that sometimes juries can react in a way to those claims in a way that is emotional, so they have to be dealt with in a way that is appropriate and respectful and delicate,” Sastre said. “They can be difficult cases in some respects.”

Defense verdicts were delivered for both Boston Scientific and C.R. Bard.

Sastre was part of the team that successfully defended R.J. Reynolds Tobacco Co., the Winston-Salem, North Carolina-based cigarette maker, when a widow sued the company for more than \$50 million. She alleged wrongful death after her husband, who was a smoker, died following a lung cancer diagnosis.

Sastre and her team argued that because the man quit smoking following his cancer diagnosis,

he could have quit smoking at any time before to avoid developing the disease.

Aside from these cases, Sastre also represents companies in the life science, biotechnology, food, beverage and agribusiness industries.

LEADERSHIP ROLES

Sastre and Geraghty manage the Miami office of the firm based in Kansas City, Missouri.

Under the leadership of firm chair Madeleine McDonough, Shook Hardy has made an intentional push to professionally develop a diverse attorney workforce. To that end, more than half of the work done for several big clients is billed by Shook Hardy women attorneys, and more than 20 percent is billed by attorneys who are members of the LGBT community.

For her part, Sastre is a member of the firm’s executive committee. She also mentors young attorneys at the firm helping in succession planning.

“It’s incredibly important to me because you need to work with lawyers who have adequate experience. ... The only way to get folks there is to candidly get them opportunities that push them outside of their comfort zone,” she said. “I am always looking for ways to get younger lawyers new opportunities, whether it’s arguing motions or depositions or trying cases or candidly just things as simple as talking with our clients on the phone.”

Lidia Dinkova covers South Florida real estate for the Daily Business Review. Contact her at LDinkova@alm.com or 305-347-6665. On Twitter @LidiaDinkova.