

MVP: Lieff Cabraser's Kelly Dermody and Anne Shaver

By Patrick Hoff

Law360 (October 11, 2023, 1:19 PM EDT) -- Kelly Dermody and Anne Shaver of Lieff Cabraser Heimann & Bernstein LLP's employment practice served as co-lead counsel in a years-long gender discrimination class action against Goldman Sachs that ended in a record \$215 million settlement and helped secure a \$118 million settlement for thousands of female Google employees in another class action, earning them a spot among Law360's 2023 Employment MVPs.

Their biggest accomplishment this year:

Dermody and Shaver have been at the forefront of two significant settlements with major companies in the past year, first with a \$215 million deal to end a class action against Goldman Sachs announced in May. The following month, Google said it would shell out \$118 million to resolve nearly five years of litigation over allegations that it underpaid more than 15,000 women working in California.

The employment law duo agreed that the deal with Goldman Sachs was their biggest accomplishment in the past year, with both saying it was a milestone in their careers. The settlement agreement, which ended more than a dozen years of litigation alleging the financial giant's evaluation metrics appeared gender-neutral but actually disadvantaged thousands of women, was announced just weeks before the case was set to begin trial in early June.

"It's a career case, to have a case that has gone on so long, it was so hard fought," Dermody said. "I can't think of another litigation I've been in that was so hard fought, and there's a stiff competition for that designation."

Shaver also said the Goldman Sachs class action was one of the first cases she worked on after joining Lieff Cabraser, and that "to finally have this case come full circle is really meaningful to me."

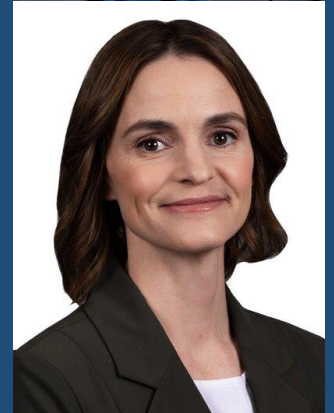
"We'd been litigating the case for over 13 years, and we were headed to trial this year, so to finally have resolved that case is very, very significant," Shaver said.

On top of the personal accomplishment, Dermody told Law360 it was meaningful to achieve a "historic settlement amount" given Goldman Sachs' position in the financial services industry and considering the potential impact the deal could

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Kelly Dermody and
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Lieff Cabraser

have. According to Dermody, the settlement is the largest ever pre-trial result in favor of plaintiffs in a gender discrimination employment case.

"It's kind of hard to put into words as a lawyer what that means, to be adjacent to that kind of result and to see your clients so happy," Dermody said. "Like, that's why we all went to law school, was to have a moment like that."

Their biggest challenge in the past year:

Though it's not a new problem, Shaver said forced arbitration continues to be a huge obstacle in getting clients' claims heard and giving workers their day in court.

In March 2022, President Joe Biden signed into law the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act, blocking employers from making workers arbitrate certain claims, which Shaver said was a step in the right direction. However, Shaver said many workplace issues need to be handled on a group or collective basis because they involve systemic issues or claims that wouldn't justify the cost of individual litigation.

"But even if you have somebody who's willing to be a class representative and has a really great claim, and they can escape arbitration, the rest of the class is still subject to an arbitration agreement," Shaver said.

In the Goldman Sachs case, for instance, about half the class at one point got held back in arbitration, though Shaver said they were able to get that reversed and bring people back into the case.

"Companies will do everything they can to cut down on the size of the group that has things in court," she said. "So, unfortunately, this issue continues to be a real access to justice problem."

Dermody said it's also been challenging to deal with backlash to diversity, equity and inclusion programs that companies have implemented, "and the feeling that some employers are emboldened to support or permit racial bias in particular, but all kinds of bias."

In some litigation, Dermody said she's run into employers who seem "completely unconcerned about systems that are intolerant" and inequitable, which feels like a regression from pre-pandemic attitudes of awareness and "a little bit of shame for employers if they felt like they were caught doing something embarrassing."

"I'm worried about this moment, at least for the short term," she said. "We're kind of in a culture battle for hearts and minds, and it's existential. We need to win that for our clients' sake."

Why they're employment attorneys:

Shaver said she started doing community organizing work in college, specifically related to workers, and she thought it was what she'd be doing for a living when she graduated.

"But I just turned out to be pretty bad at it," she said. "And I realized that I could be a service to the labor movement in multiple ways, including by getting a law degree."

In the same vein, Shaver said she's also been interested in how collective power "is really the only way" workers have leverage in the current political and economic system, which drew her toward class action work.

"The same reasons why workers need to have the right and the ability to bargain collectively, the class action or the collective action is the same concept applied in a legal setting," Shaver said.

Dermody told Law360 she also is an employment attorney because of her affinity for community organizing, but also because of her interest in supporting people who are seeking "basic fairness, basic decency and justice."

"The employment setting is so critical to human identity, at least in our American culture," Dermody said. "It's about dignity, it's about access to resources for your family, getting ahead in this world, and so when things go wrong in the workplace, it has such a significance. It kind of implodes one's entire existence."

At the same time, she added that workplaces are also good spaces to support people and help them get justice in their lives, which is why she gets "downright giddy about the possibility of American society" when things work out.

"It feels really exciting," Dermody said. "I think there's still a lot to fight for in terms of those issues, and the workplace is an incredible battleground for justice."

Their advice for junior attorneys:

Shaver said one piece of advice that's resonated with her is to overprepare, which comes from Justice Sonia Sotomayor's memoir, "My Beloved World." In the book, Justice Sotomayor writes about being nervous as a new assistant district attorney, saying she dealt with the nervousness by overpreparing and outworking everyone else.

"Even though she knew there was so much she didn't know, she wasn't going to fail because she hadn't put the work in," Shaver told Law360. "That resonated with me, and that was my strategy, and I think it's a good one."

More specifically for day-to-day use, Shaver said she'd advise junior attorneys to always propose a solution or path forward when flagging a problem to partners or other colleagues.

"It's great to be the person who finds the issue, but it's even better to be the person who both flags the issue and has an idea for how to move through it," she said.

--As told to Patrick Hoff

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