



## Sharon M. Porcellio

### Member

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### Profile

**Sharon uses her extensive trial experience to strategize with her clients to achieve expeditious and cost-effective solutions consistent with their objectives.**

Her clients appreciate Sharon's advice and innovative litigation approaches based on her understanding of business and litigation. She uses ADR judiciously and yet is ready for trial when necessary. Sharon has appeared in state and federal courts across the country and has a well-earned reputation for zealous and successful representation involving:

- corporate/business disputes
- class actions
- fraud allegations
- business torts and unfair competition claims
- shareholder and partnership disputes and dissolutions
- claims against professionals and public officials
- Child Victims Act
- claims of breach of contract
- false claims suits
- complaints by employees
- breaches of fiduciary duty
- indemnification and hold harmless claims
- claims against nonprofit entities
- COVID-19 matters

### Representative Matters

- Successfully pursued and resolved a breach of patent license agreement case for an international lighting solutions company.
- Defending financial services and other companies in putative consumer class actions brought under the Telephone Consumer Protection Act.
- Defending energy services companies in putative consumer class actions claiming overcharges resulting from among other alleged misdeeds, misrepresentation, consumer fraud and breach of contract.
- Defended an insurance company group achieving dismissal of a *qui tam* relator's allegations that multiple defendants violated the False Claims Act by failing to reimburse the government for payments made to Medicare beneficiaries in violation of the Medicare Secondary Payer Act.
- Represented a biotechnology company in winning dismissal of antitrust litigation

### Education

- Northwestern University School of Law (J.D. 1982)
- University of Rochester (B.A., *cum laude*, 1979)

### Bar/Court Admissions

- New York
- U.S. Supreme Court
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Federal Circuit
- U.S. District Court for the Northern District of New York
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Western District of New York
- U.S. Bankruptcy Court for the Western District of New York

### Practices

- Litigation
- Labor and Employment
- Intellectual Property and Technology
- Health Care
- Class and Collective Action Litigation

over termination of distribution agreements.

- Defending clients in collective and class action lawsuits under the FLSA and the New York Labor Law.
- Represented a multipurpose arena and an NHL team in a class-action suit under the Americans with Disabilities Act which was resolved favorably and timely so that the new arena opened in time for the beginning of the season.
- Represented international pharmaceutical companies against claims of fraud and other wrongdoing in connection with the pricing of prescription drugs.
- Participated in a government investigation and subsequently defended a false claims act suit for an aerospace company.
- Defended a Section 8 housing administrator in a class action suit alleging racial discrimination and segregation in the local administration of a public housing program.
- Successfully defended a hospital in federal court against a claim by an emergency room physician that the hospital interfered with his right to contract.
- Successfully defended a claim by a commercial tenant alleging constructive eviction and conversion through an equitable estoppel theory while also obtaining a judgment against the tenant for unpaid rent.
- Defended a town in a sex discrimination suit by a female police lieutenant who claimed she was passed over for promotion to the position of chief.
- Defended a minority police lieutenant in a jury trial on a claim of race discrimination by a white police officer who claimed the lieutenant retaliated against him.
- Prosecuted and defended various claims for indemnification by and for a Fortune 500 company in connection with business acquisition agreements.
- Successfully defended a subsidiary of a publicly traded company in an arbitration involving a dispute over a distributorship arrangement.
- Represented a public authority in various disputes including power rates and inverse condemnation claims.

## Honors & Affiliations

- Listed in:
  - *The Best Lawyers in America*® 2020, Litigation - Labor and Employment
  - *Buffalo Business First*, 2019 Legal Elite
  - *Buffalo Business First*, 2016 Legal Elite
  - *Legal Elite of Western New York* 2017, 2018
  - *Martindale Hubbell*®, AV Preeminent Rated
  - *New York Super Lawyers* 2019®, Business Litigation (listed for more than 10 years)
    - *Top 50 Upstate New York Super Lawyers* (2013-2019)
    - *Top 25 Women Upstate New York Super Lawyers* (2013-2019)
- Hon. Shira A. Scheindlin Award for Excellence in the Courtroom, 2019
- Mount Mercy Academy Catherine McAuley Distinguished Alumna Honoree, 2018
- Co-Chair, Advisory Group, New York State Federal Judicial Council

- Commercial Division Advisory Council to New York State Chief Judge
- Lawyers Who Lead by Example, Public Service, *New York Law Journal*, 2016
- American Inns of Court Professionalism Award for the Second Circuit, 2011
- Leaders in Law, the Nathaniel Award Nominee, *The Daily Record*, 2010
- E-Discovery Working Group for the New York State Court System
- New York State Bar Association, Past Chair, Commercial & Federal Litigation Section; Past Co-Chair, Committee on Women in the Law
- American Bar Association
- Bar Association of Erie County
- Monroe County Bar Association
- Fellow, American Bar Foundation
- Fellow, The New York Bar Foundation
- Defense Trial Lawyers Association of Western New York
- Editorial Board, *Northwestern Journal of International Law & Business*

## Representative Presentations

- Achieving Equality for Women in the Courtroom and in ADR: If Not Now, When?, Panel Presentation, Practising Law Institute, November 14, 2018
- Achieving Equality for Women In the Courtroom and ADR, Panel Presentation, Association of Corporate Counsel 2018 Full-Day CLE Program, New York City, June 20, 2018
- Advancing Women in the Profession: A Conversation Among Former Commercial & Federal Litigation Women Section Chairs, New York State Bar Association Annual Meeting, January 27, 2016
- Introductory Lessons on Ethics and Civility 2015, Panel Member, New York State Bar Association Commercial & Federal Litigation Section, April 17, 2015

## Representative Publications

- Quoted in "Women Attorneys Look to Narrow Gender Gap," *Buffalo Law Journal*, November 12, 2018
- Quoted in "Judges Push for Diverse Voices in Court: Standing Rules Help Young Women and Attorneys Take The Lead," *ABA Journal*, January 2018
- Quarterly column in *New York Law Journal Western District Roundup*:
  - "Case Against SEC Dismissed for Lack of Subject Matter Jurisdiction," April 23, 2020
  - "Undisclosed Expert Testimony and a Village Small Claim," October 23, 2019
  - "With Three Dismissals, Court Acts to Protect Its Time and Resources," July 25, 2019
  - "Loss of Social Media Followers and an Update on CERCLA Case," April 25, 2019
  - "Court Examines Two Doctrines in Environmental Case," January 24, 2019
  - "Two Decisions Provide Helpful Discovery Guidance," October 25, 2018
  - "2 Different Choice-of-Law Issues in Case Involving Third-Party Consultant,"

July 26, 2018

- "Decision Tackles Privilege Issues When Third-Party Consultant Is Involved," April 26, 2018
- "Standard for Pleading a Claim of Direct Patent Infringement: 'Sessler'," January 25, 2018
- "Court Addresses Dueling Principles of Statutory and Treaty Construction," October 26, 2017
- "Discovery of Mental Health Records, and Complex Issues Regarding Standing," July 27, 2017
- "In Two Cases, Court Addresses Bankruptcy and Arbitration Provisions," April 27, 2017
- "Two Decisions Address FOIL, FOIA Issues and a Motion to Disqualify a Firm," January 26, 2017
- "Step Into a More Active Role: Advice From the Courtroom and Boardroom," November 11, 2016
- "Important Takeaways on Class-Action Claims," October 28, 2016
- "Noteworthy Reminders on Venue and Preliminary Injunction," July 22, 2016
- "Telephone Consumer Act Action Does Not Survive Plaintiff's Death," April 22, 2016
- "Indicative Ruling Sought; Attorney Sanctions," January 29, 2016
- "Class Action Moves Forward on Copying Costs of Medical Records," October 23, 2015
- "Disqualification Motion; Discovery Dispute Resolved by Compromise," July 24, 2015
- Co-author of "If Not Now, When? Achieving Equality for Women Attorneys in the Courtroom and in ADR," July 2017
- "Sharon Porcellio of Bond Schoeneck, On Achieving Equality for Women Attorneys in the Courtroom," *Forbes Magazine* Interview, October 3, 2017
- Quoted in "Proposal would ax automatic arbitration in financial industry," *Buffalo Business First*, May 30, 2016
- "Haig Treatise a Valuable Tool for NY Commercial Litigation," *Buffalo Law Journal*, January 11, 2016
- "Another Voice: New rules streamline courts in the state's Commercial Division," *Buffalo News*, September 12, 2014
- Quoted in "A New Roadmap for Nonparty Electronic Discovery," *New York Commercial Litigation Insider*, August 13, 2014
- Quoted in "NY Biz Courts Adopt E-Discovery Rules For Nonlitigants," *Law360*, August 12, 2014

## Other Activities

- New York State AG Transition Committee, 2018 - present
- Board of Directors, The Buffalo Club, 2018 - present
- The National Deans Council for Arts, Sciences and Engineering at the University of Rochester, 2014 - present
- Past Member, Luminina Corporation d/b/a Hope Chest Wellness and Dragon

#### Boat Programs

- Past Member, Board of Directors, American Lung Association of Western New York
- Past Vice President and Member, Board of Trustees, Mount Mercy Academy
- Alumni Admissions, Northwestern University School of Law
- Co-Chair 25th Year Reunion Committee, University of Rochester