



## Sharon M. Porcellio

### Member

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### Profile

Sharon listens, counsels and litigates to help employers resolve the problems they face with employment issues. While focusing on her clients' business objectives, she leverages a unique combination of legal and practical experience to provide them with effective solutions in a wide variety of employment-related matters, including:

- collective and class actions
- FLSA claims
- retaliation allegations
- wage and hour allegations
- restrictive covenants
- sexual harassment claims
- disability actions
- age discrimination suits
- regulatory compliance

Sharon has considerable experience with alternative dispute resolution, being selected frequently to mediate and arbitrate cases privately and for the U.S. District Court of the Western District of New York.

### Representative Matters

- Defending clients in collective and class action lawsuits under the FLSA and the New York Labor Law.
- 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 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 a biotechnology company in winning dismissal of antitrust litigation over termination of distribution agreements.
- Represented international pharmaceutical companies against claims of fraud and other wrongdoing in connection with the pricing of prescription drugs.
- Successfully defended a hospital in federal court against a claim by an

### 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 Eastern District of New York
- 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

emergency room physician that the hospital interfered with his right to contract.

- 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.
- 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.
- 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.
- 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.

## Honors & Affiliations

- Listed in:
  - *The Best Lawyers in America*® 2021, Litigation - Labor and Employment
  - *Buffalo Business First*, Legal Elite of Western New York, 2016-2020
  - *Martindale Hubbell*®, AV Preeminent Rated
  - *New York Super Lawyers 2020*®, Business Litigation (listed for more than 10 years)
    - *Top 50 Upstate New York Super Lawyers* (2013-2020)
    - *Top 25 Women Upstate New York Super Lawyers* (2013-2020)
- Commission to Reimagine the Future of New York's Courts, Member
- Hon. Shira A. Scheindlin Award for Excellence in the Courtroom, 2019
- Mount Mercy Academy Catherine McAuley Distinguished Alumna Honoree, 2018
- New York State Federal Judicial Council, Advisory Group Co-Chair
- 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

- Co-author of "Remote Judging Survey: Access and Use of Technology, First Report," Technology Working Group of the Commission to Reimagine the Future of New York's Courts of which Sharon is co-chair, February 2021
- Quarterly Column in *New York Law Journal* Western District Roundup:
  - "Latitude Granted to a Pro Se Litigant Is Not Limitless," January 28, 2021
  - "Judge Considers Case Involving Debtor's Confusion Over 2 Collection Letters," October 29, 2020
  - "A Jury Trial in Age of COVID: Express and Implied Preemption in Medical Device Case," July 29, 2020
  - "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
- 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
- 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

## Other Activities

- New York State AG Transition Committee, 2018-present
- The Buffalo Club, Board of Directors, 2018-present
- The National Deans Council for Arts, Sciences and Engineering at the University of Rochester, 2014 -present
- American Lung Association of Western New York, Past Member, Board of Directors
- Luminina Corporation d/b/a Hope Chest Wellness and Dragon Boat Programs, Past Member
- Mount Mercy Academy, Past Vice President and Member, Board of Trustees
- Northwestern University School of Law, Alumni Admissions
- University of Rochester 25th Year Reunion Committee, Co-Chair