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Q&A With WilmerHale's Andrea Robinson

Law360, New York (May 28, 2009) -- Andrea J. Robinson is a partner with Wilmer Cutler Pickering Hale and Dorr LLP and serves as co-chair of the class action committee and vice-chair of the securities department. Based in Boston, she focuses on the defense of regulatory investigations and litigation challenging the sales practices of insurers and/or broker-dealers.

Robinson has handled derivative actions and class actions, including cases involving alleged accounting improprieties, insider trading, market manipulation and sales practice misconduct. Her regulatory practice has covered matters relating to alleged insider trading, options backdating, accounting improprieties, revenue sharing, market timing, late trading, 12b-1 fees, failures to supervise, disclosure, sales practice and suitability issues. In 1994, she served as special assistant district attorney for Middlesex County, prosecuting criminal cases for the Commonwealth of Massachusetts.

Q: What is the most challenging case you've worked on, and why?

A: The most challenging case involved class action lawsuits filed in three state jurisdictions (Florida, California, and New York) claiming that an insurance company did not adequately disclose when insurance coverage commenced under its contracts relative to the timing of premium payments.

The challenge in defending the suits had less to do with the substance of the claims than with the difficulty of managing them in an effective coordinated way, particularly given the perception that we were in somewhat plaintiff friendly jurisdictions.

When all was said and done, the New York action had been removed and dismissed, a punitive damages claim was struck from the California complaint and our demurrer was sustained, and we defeated class certification in Florida. The lone plaintiff standing went quietly into the night.

Q: What accomplishment as an attorney are you most proud of?

A: What I enjoy and take pride in is busting the myth of the big, bad insurance company. Plaintiffs lawyers often try to cobble together a claim or extract a settlement by telling a story about products or purported pattern of sales that don't do justice to firms or their sales practices.

Complaints are often cynical tales about a superficially appealing litigant whose purchase of an ill-defined product is disparaged against a backdrop of press releases condemning the conduct of individuals or companies that have no relationship to the dispute in question. I like exposing those distortions for what they are and getting cases dismissed on their merits.

Q: What aspects of law in your practice area are in need of reform, and why?

A: Right now, insurance carriers are forced to do business against a backdrop of complex, evolving and sometimes idiosyncratic regulatory regimes across the states, in addition to a network of federal regulation, of which the SEC's recent rule that would regulate equity indexed annuities as securities is just the latest example.

It would be nice to get to a place where firms can function in accordance with uniform standards of practice. Today, firms can find themselves litigating (or not) involving the same contract under different court systems and laws. I think there is a lot to be said for a properly structured optional federal charter system which would offer benefits to both life insurance companies and consumers.

Q: Where do you see the next wave of cases in your practice area coming from?

A: In terms of sales practice litigation, I expect that we will continue to see an increasing number of litigation matters focused on sales to seniors.

More generally, sales practices and products are subject to ever-evolving standards at both the state and federal level. New regulatory standards will inevitably give way to both enforcement actions and litigation.

Q: Outside your own firm, name one lawyer who's impressed you and tell us why.

A: The lawyer that has most impressed me is my father. He practices with both creativity and success and is still trying cases after a lengthy career. More importantly, he has retained his passion for the practice of law 50 years after being admitted to the bar.

Q: What advice would you give to a young lawyer interested in getting into your practice area? A: The advice that I would offer a young lawyer is to focus first on what she can learn from her clients, not on what she can teach them. Uninformed guidance is of limited value. We can't deliver service unless we fully inform ourselves about our clients' business and their objectives, well beyond the contours of a particular legal problem or lawsuit.