

## Consumer Protection Group Of The Year: Motley Rice

By **Matt Bernardini**

*Law360 (January 29, 2019, 5:44 PM EST)* -- Motley Rice LLC got the California Supreme Court to let stand a \$1.15 billion verdict finding several companies promoted the use of lead pigment in homes, and began work on an opioid case that could be among the largest-ever civil cases, earning it a place as one of Law360's Consumer Protection Groups of the Year.

Fidelma Fitzpatrick, an attorney at Motley Rice who worked as co-lead counsel in the lead pigment case, attributed the success to the firm's ability to take on and commit to important cases that can greatly impact consumers.

"I believe Motley Rice was successful in 2018 because of the diversity of cases that our firm tackled and the firm's long-standing commitment to take on difficult cases," Fitzpatrick said. "Motley Rice's practice groups — almost all of which are focused on litigating to protect consumers — each tackled different areas over the past year, deeply impacting consumers. We were able to achieve great results through dedication, tenacity, and staying the course in the face of multiple obstacles."

Motley Rice's biggest case of the year was originally brought by several California counties and cities back in 2000, seeking to hold multiple gasoline, paint and chemical companies responsible for the "massive public health crisis" caused by lead in California's homes and public buildings.

The suit was later reduced to a public nuisance claim, in which the cities were seeking funds to clean up buildings still containing lead paint. The case then proceeded to a 23-day bench trial from July 2013 to September 2013. In December 2013, California Superior Court Judge James Kleinberg tentatively ruled that Sherwin-Williams Co., ConAgra and NL Industries should pay a \$1.1 billion judgment.

A case like that presents many legal challenges, but the reward made it too great to pass up, Fitzpatrick said.

"The case is high risk with many legal obstacles to overcome, but the reward — protecting children from lead poisoning — is also high and one I couldn't sit out," she said. "One of the biggest challenges was staying focused on the public health issues and solutions and ensuring the litigation process didn't detract from those issues."



After several appeals, the California Court of Appeal sided with a lower court in February and upheld the \$1.15 billion judgment against the companies, and the state Supreme Court denied the companies their petition to appeal.

While the lead paint case wound down in 2018, Motley Rice started ramping up a National Prescription Opiate litigation in the Ohio federal court that, according to firm founder Joe Rice, could be one of the largest civil litigation cases in U.S. history.

"This is just something we said that we have to get behind both in terms of manpower and financially," Rice said. "It could be the largest pro bono case that's ever been done, and we could make one of the most significant impacts on our kids and grandkids."

According to Rice, the exact details of the case, including who all the defendants will be and the timing of when it could be resolved are still hazy, but he hopes it will make a big enough impact that the country will rethink its approach to regulating narcotics.

"This case is going to disclose how products particularly narcotics are marketed, distributed, and what happens when they are dispensed," Rice said. "It's also going to show who has a financial interest in what parts of the transaction and how the interplay between the insurance industry and the private citizen works."

Fitzpatrick also said the case was extremely important because opioids have caused tragedy for many people.

"Our job is to distill and simplify the facts and to make sure that we are in accord with the men and women in the public health community who deal with the realities of these tragedies on a daily basis," she said. "It is a challenge, but a rewarding one."

Overall, Motley Rice saw an uptick in consumer protection cases for 2018, possibly due to a presidential administration whose policies have favored less regulations for businesses and less protections for consumers. Consumer protection is a large focus for the firm, and the majority of its 100 attorneys are involved in consumer protection litigation in some facet.

"The opportunities that have come to the firm have been much broader and much more diverse," Rice said. "There's more consumer review on environmental issues going on, and there's more whistleblower actions taking place."

Fitzpatrick agreed with the effects that policy can have on the firm's workload, but also noted that as a result, 2019 could be a promising year for consumers in terms of transparency.

"I expect it to be a year of greater transparency for consumers — where trials and lawsuits bring important consumer issues into the public and stir public discussion on these key issues." she said.

--Additional reporting by Jeff Overley and Rich Archer. Editing by Nicole Bleier.