Appellate MVP: Shapiro Arato's Alexandra Shapiro

By **Jess Davis**

Law360, Dallas (November 30, 2015, 7:19 PM ET) -- Shapiro Arato's Alexandra Shapiro flexed her steely appellate savvy to overturn convictions for clients accused of insider trading, operating an alleged pyramid scheme and committing tax shelter fraud, making her one of Law360's 2015 Appellate MVPs.

Shapiro played a leading role in drafting the briefs in U.S. v. Newman, representing client Anthony Chiasson, a former Level Global Investors LP manager, in the appeal of an insider trading conviction that led to one of the most significant decisions in the field in decades. In December 2014, the Second Circuit issued a landmark ruling that the government needed to show insiders received substantial personal benefits for providing nonpublic information and that recipients of the tips, such as Chiasson, knew of these benefits.

Alexandra Shapiro
Shapiro Arato

She also helped persuade the Second Circuit to reverse a conviction for David Parse, a former Deutsche Bank AG broker accused of conspiring with two Jenkens & Gilchrist PC attorneys in a $7 billion tax fraud scheme, in a June ruling that held Parse's trial attorneys didn't know a juror was biased against him. And in April, the Second Circuit vacated a sentence for a Shapiro client accused of federal tax and wire fraud as part of a women's social group called a "gifting table."

The Newman decision, which the U.S. Supreme Court in October declined to review, narrowed the spectrum of what can be prosecuted under insider trading law. For Shapiro, the ruling was a culmination of a lot of work aimed at getting the appellate court to issue an opinion that makes it easier for people to understand what's legal and what's not legal.

"I think in the past the insider trading law has been kind of vague, and that has allowed prosecutors to apply it broadly, after the fact, to conduct people didn't know was illegal at the time," Shapiro said. "When you're talking about sending people to prison, under our constitution, people should have notice of what's criminal."

The precedent Shapiro helped set in the Newman case is already playing a key role in her defense of other clients.

She represents Michael Kimelman, the co-founder of trading firm Incremental Capital, who is accused of trading on inside information he received from a former Galleon Group LLC trader. He **has argued** under the Newman ruling, prosecutors can't prove he knew the tips he allegedly traded on were disclosed for a benefit.

And she co-authored the appellate briefs for former SAC Capital Advisors LP manager Mathew Martoma, who was charged with trading shares on insider information. Martoma contends his conviction and nine-year sentence don't hold up under Newman, arguing he didn't have a sufficiently close relationship with his tipster to satisfy the personal benefit requirement.

Shapiro was first in her class at Columbia University School of Law in 1991 and went on to clerk for D.C. Circuit Judge Stephen F. Williams and U.S. Supreme Court Justice Ruth Bader Ginsburg. After serving as a federal prosecutor in the Southern District of New York, including a stint as the deputy chief appellate attorney, she spent nine years as a partner atLatham & Watkins LLP before founding Shapiro Arato in 2009.

As a prosecutor, Shapiro worked mostly on violent gang cases, not white-collar work, but she found white collar crime to be one of the most interesting areas of the law because of the vast gray area in which much allegedly criminal conduct lives. She found she was always more comfortable on the side opposite prosecutors who pushed for conduct in that gray area, she said.

"I really believe if people are going to go to prison for something — as opposed to paying a civil fine — it's just critical under our constitution they understood what they were doing was illegal at the time," Shapiro said.

Shapiro said her approach to appellate advocacy differs from most other lawyers. Instead of looking for obvious legal errors in a case, she starts by looking at the big picture, homes in on the story she wants to tell, then fine-tunes the legal hook for why a defendant shouldn't have lost, she said.

"I focus on how to tell a story that will lead the judges to want to reverse and then give them the legal tools to help them do it," she said. "You have to think creatively to find a legal hook where it seems some injustice was done but more conventional approaches won't work."

Shapiro enjoyed working for Latham, but says striking out on her own allowed her to represent more individual defendants and take on interesting matters that she may otherwise have had to turn down because of conflicts or inflexibility in billing. While she sometimes misses the resources of a large firm, she said Shapiro Arato's reputation has allowed the firm to attract really talented young lawyers who are able to take on just about any kind of project.

In mid-November, Shapiro scored another win for Parse, who was granted a deferred prosecution agreement acquitting him of charges tied to the Jenkens & Gilchrist tax shelter case.

"All of this was extremely gratifying because I think a grave injustice was done in terms of the whole procedure, but I also happen to believe he's innocent, Shapiro said.

--Editing by Patricia K. Cole.