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# TEXAS LAWYER

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## Productivity and Performance: Allison Levy Helps Ensure AdvoCare Plays By the Rules

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Angela Morris

Texas Lawyer

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An exciting aspect of being general counsel of AdvoCare International Inc. is that Allison Levy occasionally meets celebrity athletes like New Orleans Saints quarterback Drew Brees and NASCAR champion Richard Petty.

Meeting athletes who endorse AdvoCare is a nice reward for Levy, who shoulders a big load as the company's sole lawyer. The Plano-based company develops and markets nutritional supplements for general health, weight management and sports performance, among other products.

Levy supervises three nonlawyer employees in her legal department, but as the company's only lawyer, she manages a vast range of issues: ensuring the company's products, marketing and direct-sales business model comply with regulations; overseeing distributors' compliance with company policies; legal issues with sponsoring sporting events; and managing outside counsel representing AdvoCare in litigation.

"My day can consist of switching gears a dozen times," she says.

Levy earned a political science degree from Boston University in 1994, and a law degree in 1997 from Southern Methodist University School of Law. From 1997 to 2000, Levy worked in her father's law firm, Eberstein & Witherite in Dallas, representing plaintiffs in civil litigation.

In 2000, Levy moved to New York City to be an in-house lawyer for American Express. When the Sept. 11, 2001, terrorist attacks damaged her office building, Levy worked from a virtual office in Dallas before returning to New York in 2002. Then in March 2003, Levy came back to Dallas to join AdvoCare as a staff attorney. She became general counsel in 2005.

Regulatory compliance is one of Levy's major job responsibilities. The Food and Drug Administration oversees the dietary supplement industry, regulating ingredients and labeling. Federal Trade Commission regulations about product claims also affect AdvoCare.

"I work with both our R&D team and our marketing department to make sure the product formulation is in compliance with regulations as well as that the claims we make are documented by research," says Levy.

FTC regulations also apply to claims about the business opportunities for AdvoCare distributors, Levy says. The company uses a direct-sales business model in which independent contractors become distributors and purchase discounted products for resale.

Direct-sales companies have "energetic" sales environments, and their general counsel can sometimes be "unpopular" because they ensure the companies' marketing strategies comply with regulations, says former AdvoCare GC Brent Kugler, who hired Levy as a staff attorney. Levy assumed Kugler's job when he returned to private practice representing direct-sales organizations.

Kugler, a partner in Scheef & Stone in Dallas, says Levy is far from unpopular; she is personable, warm and gets along with many types of people.

"Allison does a very good job of understanding what the company's objectives are and making her decisions in a way that, even if they are not popular, she goes out of her way to explain them and make sure they are understood," Kugler says.

Besides calling the shots on AdvoCare's marketing, Levy must make sure more than 150,000 independent distributors follow company policies. Two annual events called Success School teach distributors the rules and how they can comply.

"We put a tremendous amount of resources into training and education," says Levy.

Success School keeps Levy busy enough, but those aren't the only AdvoCare events that require her legal expertise — she negotiates contracts, reviews advertising, and oversees insurance and liability issues for sporting-event sponsorships. Recently, AdvoCare sponsored a NASCAR race; in December it is sponsoring the Independence Bowl, a college football game.

"Those are some of the fun things you get to do when you work in-house," says Levy. However, she adds, "sometimes you have to be in a complete defensive mode and be aggressive in defending yourself."

For example, the company has appeared in court for business-contract and trademark disputes and suits by former distributors whose contracts AdvoCare terminated for allegedly violating company policies.

Dan Sheehan of Daniel Sheehan & Associates in Dallas says he has represented AdvoCare in civil litigation and has come to know Levy as a general counsel who becomes involved in making decisions during litigation.

"It's like working with another trial lawyer, only she doesn't actually take the deposition or try the case. But her input is useful from a trial lawyer's perspective," says Sheehan, adding that it's easy to explain to Levy a case's technicalities or complexities.

"She's a very talented lawyer in her own right," he says.

AdvoCare is one of the defendants in a suit pending in the U.S. District Court for the Central District of California, *Jessica Hardy v. AdvoCare International LP, et al.*

Hardy, a professional swimmer, alleges among other things in her Jan. 24 first amended complaint that she endorsed AdvoCare and was consuming its products during a time when she "tested positive at a very low level for clenbuterol, a banned substance." She was suspended from competition. Hardy alleges she later hired a company to conduct tests that "detected the presence of clenbuterol" in two AdvoCare products.

In its Dec. 27, 2010, answer, AdvoCare wrote, "Defendant generally and specifically denies each and every allegation contained in the Complaint."

Levy says AdvoCare's position is its products didn't cause Hardy's situation, and the tests referenced in the swimmer's complaint don't meet the scientific standards necessary to present the evidence in federal court.

Defending AdvoCare against Hardy's claim has been important to Levy, she says, because the company depends on "volunteers" — both distributors and athletes — who sell or endorse AdvoCare products.

"I feel a tremendous responsibility in making sure our reputation is defended," Levy says.

One of Hardy's lawyers, Joseph Ortego of Nixon Peabody in New York City, declines comment. California solo Howard L. Jacobs, who also represents Hardy, did not return a telephone call seeking comment.

The trial in *Hardy* is scheduled for February 2012.

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## Best Practices: "Be Part of the Team"

Texas Lawyer reporter *Angela Morris* emailed *Allison Levy*, general counsel of *AdvoCare International*, some questions about her work with outside counsel. Here are her answers, edited for style and length.

**Texas Lawyer:** Which one thing from your previous legal experience helps you most in your position today?

**Allison Levy:** The importance of understanding and respecting other's perspectives and opinions about matters, and how legal decisions affect business.

**TL:** What is your favorite thing about working for an in-house legal department compared to other possible law jobs?

**Levy:** I like contributing to the team, trying to figure out a way to make it work within the confines of law and regulation. TL: What are examples of the different types of legal work for which you typically hire outside counsel?

**Levy:** Litigation, IP, employment.

**TL:** In a perfect world, what attributes and work habits would your outside counsel have?

**Levy:** Conscientious about time/expenses, over-communicators, take time and effort to understand our business and the uniqueness that may impact our decisions, to be part of the team.

**TL:** In general, what steps can lawyers in private practice take to get on a general counsel's radar for outside-counsel assignments?

**Levy:** Develop an expertise, contribute to associations/publications about those particular areas and let us know when they occur.

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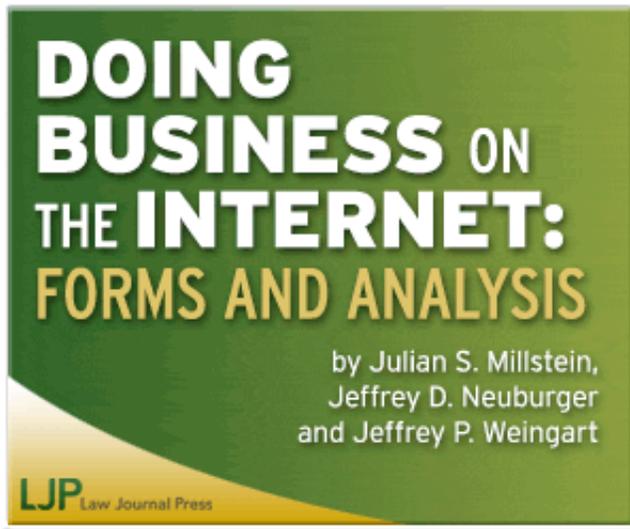
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