

Another Dose of Litigator of the Week Runners-Up and Shout Outs

Top runners-up honors this week go to the team behind a major bench trial win for the city of San Francisco in opioid litigation against Walgreens.

By Ross Todd
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Our first runners-up got a ruling this week from a federal judge in San Francisco finding Walgreens liable for substantially contributing to the opioid epidemic in the city. U.S. District Judge Charles Breyer found that Walgreens, the city's largest dispenser of prescription painkillers, failed to maintain an effective system for identifying suspicious orders. He wrote there now will be a second trial "to determine the extent to which Walgreens must abate the public nuisance that it helped to create." The ruling comes after drug companies Teva and Allergan reached a \$54 million settlement with the city just prior to closing arguments, Endo settled for \$10 million in the run-up to trial, and Johnson & Johnson and three distributors previously settled for \$60 million. The trial team from the office of San Francisco City Attorney **David Chiu** included **Owen Clements**, **Sara Eisenberg**, **John George**, **Jaime Huling-Delaye** and **Phil Wilkinson** alongside additional private counsel led by **Aelish Baig** of **Robbins Geller Rudman & Dowd**; **Jayne Conroy** of **Simmons Hanly Conroy**; **Richard Heimann** of **Lieff Cabraser Heimann & Bernstein**; and **Peter Mougey** of **Levin Papantonio**.

Litigators at **Keker, Van Nest & Peters** and **Skadden, Arps, Slate, Meagher & Flom** also land runners-up honors in the case they're handling for the PGA Tour involving antitrust claims brought by suspended golfers who have joined the professional golf tour's upstart rivals at the LIV Golf Invitational Series. U.S. District Judge Beth Freeman this week denied three LIV players' bid for a temporary restraining order

allowing them to play in PGA Tour's FedExCup Playoffs finding the players didn't face irreparable harm given the significant guarantees they received for signing on with Saudi-backed LIV Golf. The Keker team is led by **Elliot Peters**, who argued the TRO, and includes **Leo Lam**, **David Silbert**, **Brook Dooley**, **Eric MacMichael**, **Adam Lauridsen**, **Nick Goldberg**, **Tom Gorman**, **Nic Marais**, **Sophie Hood**, **Taylor Reeves**, **Nick Green**, and **Stephanie Goldberg**. The Skadden team includes partners **Anthony Dreyer**, **Karen Lent**, **Matthew Martino** and **Patrick Fitzgerald**, counsel **Peter Julian**, and associates **Michael Folger**, **Zachary Siegler**, **Katherine Calabrese** and **Adam Kochman**.

Runner-up honors also go to **Chad Landmon** and **Matt Murphy** of **Axinn, Veltrop & Harkrider** who got a key ruling for Norwich Pharmaceuticals and Alvo-gen in their efforts to market a generic form of Salix Pharmaceuticals' Xifaxan, a drug used to treat irritable bowel syndrome with diarrhea, or IBS-D, and reduce the risk of a neurological complication of liver disease. U.S. District Judge Richard Andrews in Delaware issued a written opinion this week finding the patent claims Salix asserted covering the use of the drug's active ingredient to treat IBS-D were invalid due to obviousness. Late last month, after the judge issued an oral order indicating which way he intended to rule, the stock price of Salix's parent company Bausch Health dropped more than 50%, leading to a halt in trading.

Runners-up honors also go to **Nico Martinez** and **Wesley Morrisette** of **Bartlit Beck**, and **Bryan Sells** of the **Law Office of Bryan L. Sells**. They represent

a group of prominent Black Georgia voters in a challenge to the state's at-large, statewide system used to elect members of its Public Service Commission, which regulates utilities. After a five-day bench trial, U.S. District Judge Steven Grimberg in Atlanta last week found the statewide system violates the Voting Rights Act by diluting the power of Black voters and ordered the state not to prepare ballots for two races previously scheduled for November.

Shout out to **Sean Gorman** and **Chris Dodson** of **Bracewell**, who earlier this year took home top runners-up honors for landing a whopping \$1.6 billion damages award for client BMC Software Inc. in a breach of contract suit against IBM Corp. On Monday, U.S. District Judge Gray Miller Houston found BMC was entitled to more than \$21 million in attorneys' fees and costs for what he described as an "extraordinary result" by the Bracewell lawyers. On Tuesday, the judge denied IBM's motion to amend the judgment finding BMC "is not recovering a windfall so much as it is recuperating the benefit of its bargain."

Shout out to a **Cravath, Swaine & Moore** team led by **Michael Paskin**, **Paul Zumbro**, and **Lauren Rosenberg**. Manhattan Commercial Division Justice Jennifer Schecter knocked out a lawsuit brought by one of the world's largest passenger shipping companies, Moby S.p.A., against Cravath client Morgan Stanley and two of its employees accusing the bank of interfering with its bankruptcy in Milan, Italy. At a virtual oral argument last week, the judge said "there has been no interference and there are no damages that are recoverable." **Jed Bergman** of **Glenn Agre Bergman & Fuentes** represents distressed investor Antonello Di Meo, who likewise succeeded in getting Moby's claims dismissed.

Shout out to a **Mayer Brown** team led by appellate partner **Timothy Bishop**, **Brian Kittle**, the co-head of the firm's tax practice, and tax partner **Geoffrey Collins**. The D.C. Circuit this week upheld a tax court decision finding that client Fidelity Investments was a bona fide partner in a business formed to produce refined coal, which produces fewer emissions than unrefined coal, even though that business wouldn't have turned a profit without tax credits. The appellate

court held that partnerships formed to conduct activity made profitable by tax credits "engage in legitimate business activity for tax purposes." The Mayer Brown team included partner **Joel Williamson** and associates **Colleen Campbell**, **Maria Critelli** and **John Horne**.

Shout out to a team at **Kramer Levin Naftalis & Frankel** led by **Daniel Goldman**, **Kerri Ann Law** and **Claudia Pak**. U.S. District Judge Amit Mehta in Washington, D.C. this week granted summary judgment to Kramer Levin client EIG Global Energy Partners on liability in its fraud and aid and abetting claims against Petrobras related to an investment vehicle created to charter 28 rigs to drill for oil off the coast of Brazil that collapsed in the wake of a bribery scandal. The ruling tees up a damages trial where EIG intends to seek \$221 million. The Kramer Levin team also includes **Juliana Oliveira**, **Sam Koch**, **Shaked Sivan**, **Michael Hardin** and **Dayna Chikamoto**.

Shout out to **Michael Swartz**, his team at **Schulte Roth & Zabel** and their co-counsel **Damaris Solomon-Simmons** in Tulsa, Oklahoma, who are pursuing public nuisance claims on behalf of survivors of the 1921 Tulsa Race Massacre. In a 13-page ruling last week, Tulsa County Judge Caroline Wall found that the last three known living survivors—Lessie Benningfield "Mother" Randle, 106, Viola "Mother" Fletcher, 107, and Hughes Van Ellis, 101—have standing to proceed on their public nuisance claims if their petition is amended. The Schulte team includes **Randall Adams**, **Sara Solfanelli**, **Alex Wharton**, **Angela Garcia**, **McKenzie Haynes**, **Ekenedilichukwu (Keni) Ukabiala**, **Erika Simonson**, **Melanie Collins** and **Vincent Moccio**.

Shout out to an appellate team at **Wilmer Cutler Pickering Hale and Dorr**. The First Circuit upheld the dismissal of a securities class action against Wilmer client Karyopharm Therapeutics. In particular, the appellate court held last week that the plaintiff had failed to plead any actionable false or misleading statement regarding a second clinical trial for selinexor, an oral medication to treat multiple myeloma. The Wilmer team on the matter included **Peter Spaeth**, **Allyson Slater**, **Jocelyn Keider** and **Mike Bongiorno** who argued the appeal, as well as former associate **Joseph Levy**.