

PRODUCTS PROWESS

Covington & Burling brought in surprise wins in first-of-their-kind cases when clients needed it most.



PRODUCT LIABILITY
LITIGATION DEPARTMENT
OF THE YEAR WINNER


COVINGTON & BURLING

From left to right: Emily Ullman, Phyllis Jones, Paul Schmidt, Andrew Stanner, and Michael Imbroscio, partners with Covington & Burling in Washington, D.C.

WHEN MCKESSON CORP. FACED legal exposure over opioids, Covington & Burling didn't just get a big win for the pharmaceutical distributor—it won three times.

In a groundbreaking victory, partner Paul Schmidt won a 2022 bench verdict in the first bell-

wether trial to target distributors of opioids. U.S. District Senior Judge David Faber of the Southern District of West Virginia found McKesson and two other pharmaceutical distributors had sufficient programs in place to monitor suspicious prescription orders.



Then, Schmidt and partners Tim Hester, Megan Rodgers, Chris Eppich and Greg Halperin took on the Washington Attorney General's Office, which opted out of a \$26 billion global deal involving McKesson. Partner Geoffrey Hobart assisted Jenner & Block Chairman Tom Perrelli on the \$518 million settlement that followed a bench trial.

Then, in a first-of-its-kind jury trial involving family members of opioid addicts who sued McKesson and two other companies under Georgia's Drug Dealer Liability Act and racketeering law, partners Andrew Stanner and Emily Ullman got a defense verdict on March 1.

"What's pretty unique about the opioid litigation is just the number of fronts it's proceeded on, the number of groups that have brought lawsuits," says Schmidt.

Rob Park, associate general counsel at McKesson, says the Covington team is "not afraid to think outside the box."

"The Covington team prepared tirelessly for these trials and ensured that complex issues were easily understood by the judges and juries," he says. "Everyone on the team, from partners to paralegals, worked as a single team to present a clear, accurate and persuasive picture to judges and juries, resulting in the record of success."

With 50 lawyers, Covington's products liability team is smaller than most firms. But what the firm's practice doesn't have in numbers, it makes up in experience.

In the past year, 12 lawyers argued before judges or juries—half of them for the first time. All the partners, as well as some counsel and associates, have been before a judge or jury. "That is pretty unprecedented," Schmidt says.

Associate Nicole Antoine, for instance, argued the motion for directed verdict that challenged the plaintiff's expert evidence on general causation in the first trial over toxic metals in baby food. "She had written the briefs and gave an amazing argument that convinced the judge," says Michael Imbroscio, who, along with partners Phyllis Jones and David Sneed, scored a Feb. 17 win in the U.S. District Court for the Southern District of Texas for client The Hain Celestial Co., maker of Earth's Best baby food.

Covington also scored a big win for Monsanto, owned by Bayer, in a Roundup trial in 2022. A St. Louis County jury handed a defense verdict in a case involving three plaintiffs who alleged Roundup, a pesticide, caused their non-Hodgkin lymphoma.

Imbroscio, alongside Proskauer Rose, credited a "new group of experts," and a different approach to jurors for the verdict, which was among a series of defense wins that turned the Roundup litigation around for Monsanto.

"The company took a top to bottom look at the litigation, the science, the way it was being represented, and just had some fresh eyes look at it," he says. ■