

## Rising Star: Covington's Greg Halperin

By Y. Peter Kang

*Law360 (August 15, 2024, 2:03 PM EDT)* -- Greg Halperin of Covington & Burling LLP helped McKesson Corp. win a key bellwether trial against distributors in sprawling opioid multidistrict litigation, and helped defend Boehringer Ingelheim from thousands of suits over the drug Pradaxa, earning him a spot among the product liability law practitioners under age 40 honored by Law360 as Rising Stars.

### The biggest case of his career:

Halperin helped defend McKesson in a 2022 bellwether trial over whether it created a public nuisance by allegedly flooding a region of West Virginia with huge shipments of opioids.

Covington won a full victory in West Virginia federal court in July 2022 after a 40-day bench trial in a case brought by one of the regions hardest hit by the opioid epidemic, with plaintiffs seeking \$2.5 billion in damages.

Halperin wrote the Covington trial team's opening statement and drafted cross-examination stratagems that allowed them to convince the judge that McKesson, as a distributor, was not responsible for the harms in the region.

During the West Virginia trial, Halperin left to join another team defending McKesson against similar claims in New York state court. Once a midtrial deal ended that case, he flew back to West Virginia to devise McKesson's closing argument.

It proved effective, as the court found that the plaintiffs failed to establish that McKesson and other distributors "had faulty controls against the diversion of opioids for illicit use," according to the firm.

That victory in West Virginia likely gave pause to those pursuing similar opioid claims in other states, and a few months later it helped spark a good result in opioid litigation for McKesson in Washington state, which had sought nearly \$100 billion but ended up settling for \$518 million.



**Greg Halperin**  
Covington

**Age:** 35  
**Home base:** New York  
**Position:** Partner  
**Law school:** Harvard Law School  
**First job after law school:** Clerkship with Fourth Circuit Judge Paul V. Niemeyer

Halperin said the cases were "incredibly challenging" because of the widespread social problems associated with the opioid epidemic.

"Almost everyone today has a connection to the opioid crisis, and it obviously generates strong feelings in terms of wanting to punish the companies that have anything to do with the crisis," he said. "So defending a company that had some involvement in the supply chain for opioids was incredibly challenging given the public opinions surrounding the issue."

He added, "but in those cases, we were able to convince fact finders that pharmaceutical distributors weren't a cause of the harms arising from the opioid crisis because in the limited role they play, that is not to second-guess doctors writing prescriptions for opioid medicines."

### **The most interesting case he's worked on recently:**

Halperin is part of a Covington team defending Facebook parent company Meta Platforms in a closely watched MDL over alleged social media addiction. He said the case is interesting because it underscores how over the past few years the plaintiffs bar has been trying to push the boundaries of traditional tort law.

"The opioid cases are an example, where plaintiffs try to expand the doctrine of public nuisance from something arising out of defendants' use of lands, to apply it to the consequences of the opioid crisis," he said. "We're seeing that play out in the social media litigation ... where plaintiffs are trying to expand the doctrine of product liability from tangible goods to an intangible service."

In many product liability cases, Halperin said, the law is pretty settled and the fights are about the facts of any given case.

"Here, in the social media litigation, as in the opioid litigation before it, we're not only telling our side of the story, but we are on the front lines of defending against novel legal expansions of traditional tort doctrines, whether it's public nuisance doctrine in the case of opioids and now in social media but the expansion of product liability law itself," he said.

### **His proudest moment as an attorney:**

Halperin said his proudest moment was when he helped Boehringer obtain its first defense verdict in 2020 amid thousands of lawsuits in Connecticut state court alleging its blood thinner Pradaxa caused dangerous and sometimes fatal bleeding.

"Pradaxa was the very first product liability case I had worked on, as far back as when I was a summer associate at Covington," he said. "By the time I had come back to the firm as an associate, the MDL for Pradaxa had been resolved, but a different group of [plaintiffs] lawyers brought suits in state court. So six years after the first Pradaxa case was filed, we finally had our first jury trial that resulted in a full defense verdict."

Halperin had worked on the opening statement and closing argument and drafted the cross-examination outline for the plaintiffs' key regulatory expert, the firm said. He also argued evidentiary motions, according to Covington.

"Even though this medicine had pretty incredible benefits, the [plaintiffs'] lawyers working on the case

really dragged the company's scientists through the mud in the press and elsewhere by using misleading soundbites from various company documents," Halperin said. "I had a chance to work with a lot of the company's scientists in getting ready for the trial, and after so many years of litigation, to be able to deliver a defense verdict — the scientists felt really vindicated that a jury had heard the full side of the story and had agreed with the company that it had done right by the patients."

#### **Why he is a product liability attorney:**

"I became a product liability lawyer, initially, as a way to do trial work. So many of the cases that proceed to trial today are product liability cases," Halperin said. "But I really found the work to be fascinating, and the cases involve really complicated science, and the science is usually on defendants' side in our cases because our clients aren't just releasing products into the world without thoroughly studying them to ensure that they're safe."

The tough part in these cases, Halperin said, is explaining complicated science to a jury of nonscientists.

"I don't have a science background, so I think I'm a good test for whether a scientific argument works well for nonscientists," he said. "And I stayed in doing the work just because I found it so interesting."

#### **How he thinks his practice will change in the next 10 years:**

"I think we'll continue to see the plaintiffs bar try to push the envelope in developing and expanding traditional tort doctrines beyond their original intentions," Halperin said. "We've seen that in opioid litigation with the plaintiffs bar taking public nuisance [laws] to help remediate the harms of the opioid crisis. We're seeing it in the social media cases in terms of trying to expand product liability law from covering only tangible goods to now trying to use it to bring suit against an intangible service."

"We'll continue to see the plaintiffs' bar try to come up with new ways to expand existing tort doctrines to get around the legal challenges that they face in what had been, for a long time, the main set cases in the product liability space in terms of drug and device cases involving pharmaceutical companies," he added.

*--As told to Y. Peter Kang. Editing by Adam LoBelia.*

*Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2024 Rising Stars winners after reviewing nearly 1,200 submissions. Attorneys had to be under 40 as of April 30, 2024, to be eligible for this year's award. This interview has been edited and condensed.*