

d.c. litigation departments of the year

PRODUCTS LIABILITY/MASS TORTS

COVINGTON & BURLING

COVINGTON & BURLING PARTNER PAUL Schmidt had to convince the New Jersey Supreme Court last year to side with his client, Hoffmann-La Roche, in two groundbreaking legal decisions in New Jersey on the same day. He got unanimous decisions in both, while also changing the law.

“I think it actually helped us ... to do them both together because I was able to use arguments to reinforce each other ... about the state of the science,” Schmidt said of the cases, which sought to link the acne treatment medication Accutane with Crohn’s disease. “But it was a pretty intense period.”

Because it wasn’t just the Accutane cases in New Jersey. Schmidt, along with partner Phyllis Jones, had just completed the first of three trials in Connecticut over the blood thinner Pradaxa and, along with co-counsel at Goldman Ismail Tomaselli Brennan & Baum and Shook, Hardy & Bacon, argued to toss all seven plaintiffs experts in cases brought over Bayer’s Mirena IUD. Covington won the Pradaxa trials and, on Oct. 24, 2018, a New York federal judge struck experts in more than 100 cases filed over Mirena’s contraceptive device.

Members of the Washington, D.C. trio, which includes partner Michael Imbroscio, bring separate strengths to make a formidable defense, in-house lawyers say.

“Paul Schmidt really knows how to package a case with over a decade of science for a lay jury,” said Danielle Diviaio, director and senior counsel for Pradaxa manufacturer Boehringer Ingelheim Pharmaceuticals. Imbroscio thinks outside the box, she says, and Jones is precise. “You would think she has that background—practicing medicine,” she said.

In both New Jersey cases, Covington had to convince the high court to reverse appeals courts decisions.



MICHAEL IMBROSCIO

The New Jersey Supreme Court’s first decision struck plaintiffs experts in 2,100 Accutane cases. In a significant shift in New Jersey law, the court on Aug. 1, 2018, adopted a new standard in the state for admitting expert evidence, based largely on the more stringent federal standard under the *Daubert* case. Then, on Oct. 3, 2018, the court affirmed the dismissal of 500 Accutane cases while applying New Jersey law against mostly out-of-state plaintiffs attempting to challenge an FDA-approved warning label.

In Connecticut, Jones took the lead in Pradaxa, alleged to cause internal bleeding. In 2014, Boehringer Ingelheim paid \$650 million to settle most of the cases, but more than 2,500 remain in Connecticut state court. She tried the cases alongside Orlando “Rod” Richmond at Butler Snow and Sharla Frost of Tucker Ellis. On Oct. 18, 2018, Covington lost a \$1.25 million Pradaxa verdict in West Virginia’s federal court, but post-trial motions are pending, as of May 13. When it comes to Jones, Schmidt said, “people are knocking down her door to get her to try cases.”

—AMANDA BRONSTAD

firm facts

Name of firm: Covington & Burling
Founded: Washington, D.C.
Total number of attorneys: 1,019
Litigators as percentage of firm: 62%
Litigators as percentage in D.C.: 67%
Litigation partners firmwide: 166
Litigation associates firmwide: 387
D.C. litigation partners: 97
D.C. litigation associates: 245

keys to success

- A young, dynamic, diverse team;
- Top-flight trial capabilities;
- Having a knack for crafting complex facts into understandable stories; and
- Strategic insight drawn from demonstrated ability to win at every stage: early motions practice, expert wins, key summary judgment issues, trial, appeal.

—Mike Imbroscio