

Life Sciences Group Of The Year: Covington

By **Matthew Bultman**

Law360, New York (January 4, 2016, 4:00 PM ET) -- Covington & Burling LLP's life sciences practice led Eli Lilly & Co. to trial court wins over its antidepressant Cymbalta and helped guide Allergan PLC through a multibillion-dollar acquisition, securing the group a place as one of Law360's Practice Groups of the Year.



The firm's life sciences practice, a cornerstone of Covington since its early days, has been recognized by Law360 for its work in the field several years in a row. John Hurvitz, co-chairman of the group, said a large part of the continued success is the collaborative nature of the firm and the ability to work seamlessly across various disciplines.

"We practice law across disciplines, and I think part of the reason we are successful is because of our culture," he said. "We don't have origination credits. We don't have an 'eat what you kill approach' to compensation."

"Our firm," he continued, "is really predicated on collaboration and cooperation to deliver the best results for our clients. In this way, we are able to practice as our clients do, in a multidisciplinary manner that brings together a diverse range of tools to solve problems and create opportunities for our clients."

Eli Lilly scored a win in September when a federal jury decided its warnings about the withdrawal risks of the antidepressant Cymbalta were adequate. The victory followed the drugmaker's successes in two other similar Cymbalta trials earlier in August in California federal court.

The company has also persuaded federal courts in places like New York and South Carolina to throw out similar cases on summary judgment, and it twice beat back plaintiffs' efforts to create multidistrict litigation.

Taken together, the successes have taken steam out of the litigation, according to Michael Imbroscio, a

Covington attorney and co-lead counsel, who said Eli Lilly has stood by the belief that Cymbalta users were adequately warned about potential risks.

“Our client is standing by that principle, standing by the warning, and we have been able to be successful in keeping the litigation at bay by essentially defending that warning and defending it at every stage,” he said.

Separately, Covington’s team has strung together a remarkably successful record challenging judgments against Hoffmann-LaRoche Inc. in long-running litigation over its Accutane drug.

In August, a New Jersey appellate court reversed a \$25 million jury verdict against the drugmaker. It marked the 13th consecutive appeal Roche won in the cases, with appellate courts reversing every adverse plaintiff verdict and affirming every trial court judgment in the company’s favor, according to the firm.

Imbroscio credited Roche for maintaining its position throughout the litigation and said the successes on appeal can be attributed in large part to strong briefs that have zeroed in on the key issues.

“I think that means knowing which issues to argue and which issues not to argue, and knowing how to frame them in a larger context that makes them most appealing to appellate judges,” he said.

In the transactional realm, Hurvitz highlighted Covington’s work as lead counsel to Allergan, which agreed in June to buy Kythera Biopharmaceuticals Inc. for \$2.1 billion in cash and stock. The Irish drugmaker acquired Naurex Inc. a month later for a \$560 million upfront payment with other potential payments in the future.

Additionally, Covington’s life sciences group helped guide AstraZeneca PLC’s strategic collaboration with Celgene Corp., in which the two will work together to develop and commercialize AstraZeneca’s PD-L1 inhibitor to treat hematologic cancers.

In another deal, Regeneron Pharmaceuticals Inc. and Sanofi SA will collaborate to develop new antibody cancer treatments in the emerging field of immuno-oncology. Under that agreement, finalized in July, Sanofi committed to invest at least \$1.8 billion in the program, including a \$640 million upfront payment — a substantial investment in the collaboration space, according to Hurvitz, whose group advised Regeneron.

Hurvitz, a transactional lawyer in his own practice, spoke highly of Covington’s life sciences deal makers’ ability to help life sciences company clients navigate these sorts of deals, taking complex relationships and distilling them down to more easy to manage, working relationships.

“Our strength is not getting lost in the weeds and putting in place a series of structures and relationships so the parties are incentivized to work together,” he said. “That is the goal — trying to find simple, more nuanced, handcrafted agreements that allow parties to work flexibly and creatively.”

On the regulatory front, Covington has advised the Pharmaceutical Research and Manufacturers of America, a leading pharmaceutical trade group, and others on a range of regulatory and legislative matters, including potential changes to drug approval laws in China and India.

The firm’s life sciences group also works with a large number of clients on individual matters that span

jurisdictions around the globe, including places like Germany, the U.S. and the U.K. — a fact that distinguishes it from its peers, according to Richard F. Kingham, a co-chairman of Covington’s life sciences group.

“All those are examples of a situation I don’t think any other firm can do: advising clients on a truly global basis, concerning issues that affect them across national lines,” he said.

-- Additional reporting by Sindhu Sundar. Editing by Jeremy Barker.

All Content © 2003-2016, Portfolio Media, Inc.