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Life Sciences Group Of The Year: Covington

By **Daniel Connolly**

Law360 (March 3, 2023, 2:02 PM EST) -- Winning a jury trial verdict in favor of Monsanto and advising Sanofi on a multibillion-dollar collaboration with an artificial intelligence company are among the achievements that helped make Covington & Burling LLP one of Law360's 2022 Life Sciences Groups of the Year.

Covington represents some of the biggest names in pharma and other life sciences sectors, including AstraZeneca, Bayer, BioNTech, Eli Lilly, McKesson and Merck, among others.

Life sciences is a longstanding area of focus for the firm, said Michael Labson, a partner and co-chair of Covington's life sciences industry group.

"Our approach to life sciences is based on a combination of our longstanding deep regulatory and policy expertise with leading litigators, transactional lawyers and intellectual property lawyers," Labson said.

"So we combine that kind of regulatory and policy expertise with high-end other legal practice areas," he said. "And we do it across the globe, with a particular focus on the U.S., on Europe and Asia."

Labson noted that the firm's focus within Asia is on China.

The firm has more than 1,400 lawyers around the world, including more than 200 who work on behalf of clients in the biotechnology, pharmaceutical and medical device industries.

In the U.S., the firm's biggest group of life sciences lawyers is based in Washington, D.C., with additional attorneys in New York, Los Angeles, San Francisco and Palo Alto, California, Labson said. In Europe, the firm has life sciences lawyers in London, Brussels, Frankfurt and Dublin, he said.

In Asia, the firm has life sciences lawyers in Shanghai, Beijing and Seoul, South Korea. In addition, the firm's life sciences lawyers are in other locations around the globe, including South Africa and Dubai in the United Arab Emirates.

Despite having so many attorneys around the world, the firm has a highly collaborative culture, Labson

said, and it has built its financial incentives to encourage collaboration.

"Among other things we don't have for partners: billing credits, origination credits or other kinds of financial metrics that some large firms use," Labson said. "Instead, we have a more holistic system that rewards people for collaborating and introducing colleagues into client relationships. And we think that fosters a more cohesive, collaborative approach that is in the interest of our clients."

One of those clients is Monsanto, which is owned by Bayer AG. Monsanto makes the widely used herbicide Roundup, which has been the subject of extensive litigation, as thousands of plaintiffs have argued that Roundup causes cancer.

Many of the cases have gone to trial, and some resulted in significant verdicts against Monsanto. For instance, the U.S. Supreme Court last year refused to review two of those cases: an $87 million verdict in favor of Alva and Alberta Pilliod, and a $25 million verdict in favor of Edwin Hardeman.

Monsanto has won rulings in its favor in several other cases, including a 2021 jury trial in Los Angeles in which Covington partner Jennifer Saulino was on the trial team. That Los Angeles case was considered Monsanto's first jury win in a Roundup cancer trial.

Saulino came back to represent Monsanto as a lead trial lawyer in 2022, this time working with Manuel Cachán of Proskauer Rose LLP. Monsanto sometimes hires attorneys from two different firms, she said.

The Roundup trial in St. Louis in 2022 was notable for several reasons: It was the first trial over Roundup cancer allegations in the company's St. Louis backyard, and it was also the first such trial to involve multiple unrelated plaintiffs.

These cases are challenging because they involve a lot of science, Saulino said. "And I work with a team to learn the science and then ultimately to teach the jury science. And I think we felt like what we were able to do in St. Louis was really to teach the jury science."

Monsanto presented an expert who presented the theory that what causes cancer is a mistake in cell replication and then presented other experts who explained the concept of cell replication, she said.

After several weeks of testimony, the jury verdict came back.

"When you're a trial lawyer, you walk into the room terrified of what is about to be said, and then you hold your breath while the judge reads. This was no different," she said.

The jurors sided with Monsanto.

"We felt like we had put in a very strong case, but until you actually hear from the jury, you don't know what the jury thought of it. And so, you know, I was very, very glad that they, based on their verdict, they heard and understood what we were hoping to teach them."

In another big transaction for Covington, Jeremy Hutcher, special counsel with Covington, was a key member of a team of lawyers that represented French drug giant Sanofi SA as it wrote a collaboration agreement with Exscientia PLC, a U.K. pharmatech company that uses artificial intelligence to speed up the drug discovery process.

Hutcher said Sanofi and Exscientia collaborated well, as they shared the same goal of discovering compounds that will benefit patients.

"So it was actually really nice and interesting to see traditional pharma lawyers working with the computational chemists at Exscientia in the negotiation room to come to win-win deal points for both parties," he said.

He said he couldn't speak to the specifics of how the deal is structured but said that, in general, in deals like this, the AI provider earns an incentive for helping the drug company move more quickly toward drug discovery.

The companies announced in January 2022 that Exscientia would receive an upfront cash payment of $100 million and that Exscientia could earn up to a total of $5.2 billion if it met all milestones. And if Sanofi ended up selling a drug from the collaboration, Exscientia could earn additional royalties on sales.

"The reason I think Sanofi called on us is we have this very dedicated Digital Health Initiative," Hutcher said. "And you know, we bring in lawyers across practice areas.

"So for example in AI drug discovery collaborations, I have a technology transactional background, I work with more pure life sciences, lawyers, antitrust lawyers, privacy, data security lawyers. So we're able to marry up all of those specialized needs."

--Editing by Andrew Cohen.

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