

## **PHARMACEUTICAL AND MEDICAL DEVICES (CLASS ACTIONS)**

### **OVERVIEW**

For decades, we've defended leading pharmaceutical and medical device companies in mass tort, product liability and consumer class action cases, including cases that form part of multidistrict litigation. Our Pharmaceutical and Medical Devices Team serves in various roles for our clients, including lead or co-lead trial counsel in MDLs; lead trial counsel in single-jurisdiction suits throughout the United States; regional counsel collaborating with other firms to coordinate nationwide litigation; national settlement processing counsel engaging in large-scale document review and management; coordination of legal, class certification and appellate strategy; and local counsel to our colleagues at other firms across the country who require particular experience in the regions in which our offices are located. We have tried numerous cases to verdict, and defended hundreds of matters in state and federal courts across the country.

Our clients include household names with global footprints as well as smaller medical device companies with tightly focused product lines. In each instance, we draw on our deep litigation experience and technical knowledge to understand the merits of legal defenses as well as the complex medical and technological underpinnings behind our clients' products. As cases move forward, we work closely with in-house and external medical and technical experts to develop factual and legal defenses that support our clients' cases. We know the industry and invest the time to know our clients.

Although teamwork is critical for any litigation, it is particularly important in the pharmaceutical and medical device industries. For that reason, we foster an approach that enables and rewards teamwork in defense of our clients, whether serving as national, regional or local counsel. We assure that national litigation remains coordinated so the company and all counsel speak with a single, consistent voice. Like the rest of our product liability litigation team, our pharmaceutical lawyers have the experience, fortitude and conviction to see matters through trial and appeal, while balancing those assets with a business acumen to manage each individual case based on its unique traits.

## MEET THE TEAM



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## EXPERIENCE

### **Pharmaceutical**

- Representing a subsidiary of a Fortune 500 consumer goods company regarding allegations that plaintiffs suffered severe and debilitating tendon injuries after using Levaquin, a broad spectrum synthetic antibacterial agent approved for use in the treatment of a variety of upper respiratory infections, urinary tract infections, prostatitis and other bacterial infections.
- Successfully struck class allegations in consumer fraud case seeking reimbursement for expired children's Tylenol. The court found the putative class was not objectively

“ascertainable” because there was no objective proof of who purchased the product during the statute of limitations period.

- Represented a pharmaceutical company against allegations in Missouri that it failed to warn about the risk of ovarian cancer associated with baby powder causing plaintiff to pay more for the product than it was worth. Motion to dismiss was granted. The court found no “ascertainable loss” under the MMPA because plaintiff received the benefit of her bargain— safe and effective baby powder for her intended use.
- Obtained dismissal of consumer class action against pharmaceutical company alleging sale of opioids increased health insurance premiums in Missouri state court.
- Successfully obtained dismissal of three nationwide consumer fraud class actions concerning the design, packaging, marketing and sale of prescription glaucoma drugs after defeating certification. The Drug and Device Blog ranked one of our appellate wins in this litigation as the second-best drug and medical device decision of 2018.
- Appellate amicus curae counsel for leading biotechnology organizations in multidistrict, class action litigation concerning allegations that the popular biologic drug Herceptin failed to provide the labeled dose.
- Co-lead counsel for an American multinational medical devices and health care company, in the defense of its FDA medication Depakote, an anti-seizure medicine used to manage epilepsy, bipolar disorder and migraines, in litigation against more than 600 personal injury lawsuits.
- Co-lead counsel representing one of the world's largest pharmaceutical companies in the defense of its medication Pradaxa.
- Lead counsel in an important, high-profile Vioxx trial in Madison County, Illinois, that resulted in a defense verdict. Part of the team that acted as national counsel for the Vioxx settlement program.
- Successfully defended a consumer fraud class action in state court in Kansas City, Missouri, against plaintiffs seeking in excess of \$1 billion in actual and punitive damages. After assuming the substantive defense after class certification, we served as lead trial counsel. The case was ultimately resolved shortly before trial.
- We represent a global pharmaceutical company in personal injury cases pending in state courts in St. Louis City and St. Louis County involving more than 1,000 plaintiffs related to the drug Risperdal.

- Acted as co-counsel in the third bellwether case in the Fosamax litigation in New York, where we obtained a defense jury verdict.
- Successfully defended a pharmaceutical client as co-lead trial counsel in a personal injury lawsuit involving alleged birth defects related to use of anti-psychotic medication in Illinois. The jury returned a defense verdict.
- Counsel for an Israeli pharmaceutical company in an arbitration brought against its Chinese former partner arising out of a License and Distribution Agreement for the development of a new anti-insomnia drug.

## **Medical Devices**

- Successfully defended a pharmaceutical client in a wrongful death case involving the use of a pelvic mesh product. The court entered a directed verdict in favor of the client on the failure to warn and punitive damages claim. The plaintiff then settled the design defect claim.
- Served as national counsel in the defense of Merck's FDA-approved birth control hybrid pharmaceutical/medical device NuvaRing.
- Defended American multinational corporation that develops medical devices, pharmaceutical, and consumer packaged goods in pelvic-mesh cases nationwide.