

Recent Health Care Litigation Representations

RECENT HEALTH CARE LITIGATION REPRESENTATIONS:

WHITE COLLAR/FEDERAL GOVERNMENT REGULATORY LITIGATION

- We were lead trial counsel and won a complete defense verdict for **Express Scripts** in a jury trial in the U.S. District Court for the Eastern District of Missouri related to a claim made by a compound pharmacy that it had been improperly terminated for failing to collect and/or waiving co-payments.
- We represented **Novartis** in a False Claims Act case brought by the U.S. Attorney's Office for the Southern District of New York alleging that the company paid kickbacks to specialty pharmacies so that they would recommend Novartis' products. We litigated aggressively against the government for two and a half years and eventually secured for the company a settlement for 10% of what the government had claimed in court filings it was entitled to in damages.
- We represented **Actelion Pharmaceuticals** in a three year Department of Justice investigation into marketing practices related to the drug Tracleer. The investigation concluded without any criminal charges being filed and with the dismissal of the related qui tam action.
- We successfully represented **Johnson & Johnson** in an eight year criminal and civil investigation into the alleged off label promotion of the drug Natrecor.
- We represented a **Southern California hospital chain** in connection with criminal and civil investigations by the United States Attorney's Office for alleged violations of the anti-kickback statute.
- We represented the chief compliance officer of a **large Southern California hospital chain** in a federal grand jury investigation in the Central District of California for alleged fraudulent billing in seeking reimbursement from Medicare based on allegedly inaccurate diagnostic codes.
- We are representing a **medical device company** in connection with parallel civil and criminal actions for alleged violations of the Food Drug and Cosmetic Act and the False Claims Act for alleged off label drug promotion.
- We are representing a **compound pharmacy** in connection with parallel civil and criminal actions for alleged violations of the anti-kickback statute.

- One of our partners represented **Alvarado Hospital Medical Center, Inc.** in an eleven-month jury trial in which the Hospital, Tenet, and a former CEO of the Hospital were accused of conspiracy and violations of the federal healthcare anti-kickback statute. Following trial, the judge dismissed all criminal charges.
- One of our partners represented **Lovelace Hospital**, which at the time was owned by CIGNA Healthcare, in a DOJ civil False Claims Act investigation and settlement of Medicare Part A reimbursement issues.
- One of our partners represented the **Orange County Health Care Agency** in a DOJ civil False Claims Act investigation and settlement of Medicare and medical billing issues.
- One of our partners represented the former Chairman and CEO of a **publicly traded pharmaceutical company** in securities litigation and governmental investigations arising from public disclosures about scientific disputes with the Food and Drug Administration over a New Drug Application. These matters included scientific and expert issues relating to the efficacy of the drug, as well as sensitive media relations issues.
- One of our partners represented a **publicly traded company** in an FDA investigation into alleged false statements in connection with a new drug application submitted to the FDA.
- One of our partners served as co-lead prosecutor in the largest health care prosecution against one doctor in the United States (total fraud amount alleged was \$374 million).
- One of our partners represented **hospitals, doctors, and publicly traded companies** in a wide variety of governmental investigations into alleged violations of the health care fraud and abuse laws, including the federal anti-kickback statute.

STATE REGULATORY LITIGATION

- We represented the **largest health plan in California** in a 40-day trial arising out of an enforcement proceeding, which the Department of Managed Health Care sought to require California health plans to cover Viagra and other sexual dysfunction drugs; the court rejected virtually the entirety of the Department's case and the decision was upheld on appeal in *KFHP v. Zingale*.
- We represented **major HMOs** in numerous investigations and litigation being conducted by the California Department of Managed Health Care.
- We represented an **association of health plans** in state court action challenging the regulatory authority of the State of California.
- We represented a **health plan** in state court in California in an action to enjoin Department of Managed Health Care from compelling coverage of prescription weight-loss medications. Court granted health plan summary judgment.

- We represented a **major health insurance provider** in connection with a civil law enforcement action brought by the Los Angeles City Attorney's Office alleging violations of California's Unfair Competition Law.
- We represent the former CEO of a **large California insurance company** in governmental investigations relating to compliance with various California regulatory requirements.

CONSUMER CLASS ACTION

- We are representing **Health Republic Insurance Company** in a certified class action against the United States related to the Affordable Care Act (the ACA). Through this action, we seek to recover approximately \$2.2 billion in payments owed to a class of health plans operating in the Health Benefit Exchanges of the ACA.
- We represented **Pfizer** in the federal Zolofit MDL birth defects litigation; summary judgment was granted on Pfizer's behalf.
- We represented a **national health insurance carrier** sued for canceling coverage of thousands of California realtors; the motion for injunction to reinstate coverage was denied.
- We represented a **major California health plan** in a putative class action related to alleged improper "coordination of benefits" with auto-med-pay policies; case was dismissed.
- We represented a **major California health plan** in a putative class action challenging the reimbursement rates paid for out-of-network medical services; summary judgment was granted on behalf of our client.
- We represented a **major California health plan** against claims by a putative class of licensed physical therapists challenging the health plan's payment practices.
- We obtained a complete victory for **IBM**, who had been named as a defendant in a series of state and federal class actions arising out the loss of nine data tapes belong to IBM's client, Health Net, Inc. Based on a California statute, known as the Confidentiality of Medical Information Act, which appears to allow certain damages without proof of injury, plaintiffs were seeking approximately \$2 Billion. After the cases were consolidated in the Eastern District of California, we filed a motion to dismiss the consolidated cases on standing grounds. During the months that the motion was pending, we also managed to stave off discovery by demonstrating to the Judge that they had a robust motion to dismiss and that causing IBM to engage in discovery before the motion was decided would be a miscarriage of justice.

APPELLATE

- We represented **Pfizer** in a unanimous victory in the U.S. Court of Appeals for the Second Circuit, which affirmed dismissal of off label marketing claims brought against Pfizer under the qui tam provision of the False Claims Act.

- We obtained a 7-2 victory in the U.S. Supreme Court for **Roche** against Stanford University in a suit involving patents related to HIV treatment that had been developed in a collaboration between Stanford and Roche’s predecessor, Cetus Corporation. The Court held that Roche was a co-owner of the patents in suit and rejected Stanford’s effort to void its prior contracts based on its receipt of federal funding, reasoning that the Bayh Dole Act—the statute governing federal research funding—does not give automatic ownership of patents to universities.
- We secured a 6-2 victory for **Wyeth LLC** (part of Pfizer Inc.) in the U.S. Supreme Court in *Bruesewitz v. Wyeth*, which held that the National Childhood Vaccine Injury Act preempts state-law causes of action based on theories of defective design in governmentally-approved child vaccines. The decision has significant implications for public health and the vaccine supply, as it removes design-defect claims that if permitted would have increased manufacturers’ costs and depressed vaccine supply and development.
- We represented **Ortho-McNeil**, a Johnson & Johnson subsidiary, in a unanimous Seventh Circuit victory that made new law narrowing “manifest disregard of the law” as a ground for district court vacatur of arbitral awards and reversed a partial vacatur of an award that had favored Ortho in a dispute over ownership of two patent families relating to new biological drugs for the production of red blood cells.
- We obtained a victory in the Ninth Circuit for **Sequus Pharmaceuticals, Inc.** (a subsidiary of **Johnson & Johnson**) that strengthened protection of foreign arbitral awards by holding that the removal provision of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the “New York Convention”) should be construed broadly to prevent state-court end runs around foreign arbitration.

OTHER

- The firm represented **Express Scripts** in a breach of contract and antitrust action in the Eastern District of Missouri in connection with Express Scripts’ termination of compounding pharmacies from its network. Plaintiffs sought over \$120M in damages. This was only the second case that Express Scripts took to trial in the history of the company—in the first case, Quinn Emanuel obtained a jury verdict in Express Scripts’ favor. In the lead-up to trial, Quinn Emanuel moved for and obtained what were effectively case-terminating sanctions for Plaintiffs’ discovery violations; the Court awarded Express Scripts \$360,000 in monetary sanctions, struck Plaintiffs’ damages expert, and invited supplemental summary judgment briefing. Four days before the start of trial, the Court granted summary judgment in Express Scripts’ favor on all of Plaintiffs’ claims to be tried and held that Plaintiffs were liable on Express Scripts’ counterclaims, leaving only the amount of Express Scripts’ damages for the jury to decide. Following the Court’s decision and during jury selection, Plaintiffs agreed to a \$20M consent judgment, the full amount of damages sought by Express Scripts. This completed a string of victories that QE obtained for Express Scripts in five antitrust cases after taking over their defense from prior counsel.

- We recently obtained three consecutive complete defense verdicts in jury trials in Los Angeles Superior Court related to claims that talcum powder products made and sold by our client, a Fortune 100 consumer products company, contained asbestos and caused personal injuries to the plaintiffs.
- We are representing **USC** in a dispute with UCSD over the Alzheimer's Disease Cooperative Study (ADCS).
- We secured a 9-figure settlement for a pharmaceutical company in several contract disputes arising out of drug and device development collaboration and licensing agreements, without having to file suit or request arbitration. This is a prime example of the “Quinn Emanuel Effect,” where our appearance, reputation, and initial strategic initiatives result in an early and highly favorable outcome.
- We represented **Ansun Biopharma** in a trade secret suit concerning inhalable flu medication. It settled in 2014.
- We represented **Aids Healthcare Foundation** in a contract dispute between them and a pharmaceutical company in 2014.
- We represented **D.C. Medicaid HMO** in successful defense of action involving dispute over proper Medicaid reimbursement rate; prevailed on summary judgment.
- We represented **D.C. Medicaid HMO** in tortious interference action over hospital's balance-billing practices directed at client's Medicaid members in D.C. Superior Court; prevailed in jury trial, including compensatory and punitive damages, resulting in defendant's bankruptcy filing.
- We represented **Medicis Pharmaceuticals** in the defense of a breach of contract action against Impax Laboratories in the Superior Court of the State of Arizona relating to the timing of the effective date of a patent license.
- We represented **Medicis Pharmaceuticals** as plaintiff in a breach of contract action against Actavis Mid-Atlantic LLC in the Superior Court of the State of Arizona arising out of Actavis Mid-Atlantic's breach of the non-compete provisions of a pharmaceutical distribution agreement.
- We represented **Medicis Pharmaceuticals** in the defense of a confidential arbitration with a development partner relating to the partner's claim that it had met certain development milestones and thus was entitled to the exercise of certain contractual rights.
- We represented **Foresight Biotherapeutics** in the defense of a confidential arbitration with a development partner relating to the partner's claim that a joint development program had met certain milestones and that the partner was thus entitled to receive certain financial consideration under the parties' agreement.

- We represented **Pfizer, Inc.** in the defense of an action against Travelers Insurance arising out of Travelers claim that it was fraudulently induced to reimburse insured for the prescription cost of branded Neurontin.
- We represented **Pfizer, Inc.** as plaintiff in an action against Amgen Fremont, Inc. and Amgen, Inc. arising out of the Amgen defendants' breach of the terms of a Collaborative Research Agreement and License Agreement relating to the development of monoclonal antibody treatments for various diseases.
- We successfully represented **Pfizer** in California Superior Court in Santa Clara in the retrial of an action alleging theft of trade secrets related to the design and conduct of a clinical trial.
- We represented **Mallinckrodt Pharmaceuticals** in the defense of an action brought by a development partner alleging breach of a development and licensing agreement relating to new topical anti-inflammatory drug product.
- We represented **Pharmaceutical Product Development, Inc.** in an action alleging intentional breach of contract and fraud related to PPD's acquisition of Magen Biosciences, Inc. We successfully defeated a motion to dismiss by the stockholder defendants, and after fact discovery, the parties reached an agreement to settle the case on terms favorable to our client.

Please refer to the below links for a complete listing of our experience in the related areas of Life Sciences Litigation, Product Liability & Mass Torts Litigation.

- [Life Sciences Litigation](#)
- [Product Liability and Mass Torts Litigation](#)