

THE  
AM LAW LITIGATION DAILYLitigator of the Week  
Runners-Up and Shout-Outs

By Ross Todd

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First up this week are **Annie Kastanek** of **Jenner & Block** and **Stephen Lee** of the **Law Office of Stephen Chahn Lee**, who handled a post-trial appeal for Mark Sorensen, the owner of durable medical equipment company SyMed Inc., who was convicted under the federal Anti-Kickback Statute. Sorensen was facing a potential 42-month prison sentence after a jury found him guilty of one count of conspiracy and three counts of offering and paying kickbacks in connection with sales of orthopedic braces to Medicare patients. But the Seventh Circuit this week overturned Sorensen's conviction, holding that the advertisers and manufacturer Sorensen paid to generate sales were neither physicians nor people in positions to "leverage fluid, informal power and influence" over healthcare decisions covered under the Anti-Kickback Statute. Kastanek argued the case at the Seventh Circuit.

A trial team from **Alston & Bird** helped T-Mobile fend off a \$253 million patent infringement lawsuit. U.S. District Judge Rodney Gilstrap entered judgment for T-Mobile this week after jurors in his Marshall, Texas, courtroom found



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that the plaintiff, General Access Solutions Ltd., hadn't proven that T-Mobile infringed either of the two asserted patents, which cover wireless network technology. The Alston & Bird team includes partners **Ted Stevenson, John Haynes, Scott Stevens, Tom Davison, Natalie Clayton, Michael Deane** and **Emily Chambers Welch**, counsel **Stephen McNiff**, senior associates **Kyle Ceuninck** and **Emily Fitzgerald** and associates **Mary Riolo** and **James Atkison**, with co-counsel **Deron Dacus** of **The Dacus Firm**.

A team at **Cooley and Kirton McConkie** secured a win for Lunan Pharmaceutical Group Co. Ltd.

in the run-up to the company's scheduled trade secrets trial next month against Long Zhao, the daughter of the company's founder. Last week, U.S. District Judge Myong Joun in Boston granted Lunan summary judgment under Massachusetts trade secret law, finding Zhao obtained confidential information by improper means through insiders employed by Lunan. The judge also granted the company partial summary judgment under the federal Defend Trade Secrets Act. The Cooley team is led by **Adam Gershenson** and **Dane Voris**, with support from associates **Meredith Kelly** and **Allison Sherwood**. The Kirton McConkie team is led by **Cameron Hancock** and **Qiwei Chen**.

**Cory Hohnbaum**, **Rob Friedman** and **Lauren Lutton** of **King & Spalding** scored a defense win last week for Boehringer Ingelheim in Chicago in the latest case to go to trial on claims the heartburn medication Zantac increases the risk of cancer. After a three-week trial in Cook County Circuit Court, jurors found that Boehringer Ingelheim was not liable for plaintiff Vincent Fiducia's kidney cancer.

A team led by **Elizabeth Jois** of the **New York Legal Assistance Group** and **Lisa Cleary** of **Patterson Belknap Webb & Tyler** secured a preliminary injunction last week giving home health care recipients in New York and their providers more time to transition to the state's preferred fiscal intermediary as part of its Consumer-Directed Personal Assistance Program. The team previously won a temporary restraining order from U.S. District Senior Judge Frederic Block in Brooklyn blocking the state's proposed April 1 deadline for the transition from 600 fiscal intermediaries who facilitate

payments to care providers to the one chosen by the state, Public Partnerships LLC, or PPL. As part of the injunction negotiated with the New York State Department of Health, CDPAP consumers have until May 15 to enroll with PPL, and personal assistants until June 6. The legal team included **Julia Russell** of NYLAG and associates **Kate Ross** and **Emma Brill** of Patterson Belknap.

A team at **Mayer Brown** led by partners **Nancy Ross** and **Matt Moscon** locked up a summary judgment win last week for the Board of Directors of the Motion Picture Industry Pension and Health Plans and 50 of its former and current directors in an ERISA lawsuit. U.S. District Chief Judge Dolly Gee in Los Angeles concluded that the plan's underperformance of about 1% during a 10-year bull market was "insufficient to create a triable issue of fact as to whether the Plan fiduciaries breached their duty of prudence." Moscon argued the summary judgment motion for the defendants. The Mayer Brown team included partners **Jackie Vallette** and **Mike Menssen** and associates **Malori Fery**, **Jordan Hilton** and **Daisy Gray**.

With litigators at **O'Melveny & Myers** representing American Airlines and a team at **Lewis Brisbois Bisgaard & Smith** representing uniform maker Twin Hill Acquisition, the companies fended off lawsuits from airline employees who claimed they were harmed by chemicals in their uniforms. U.S. District Judge John Tharp Jr. in Chicago granted summary judgment to the defendants last week. The judge found that the methods used by two plaintiffs' experts to determine the uniforms' defectiveness were "insufficiently reliable" and that the experts failed to establish that "the plaintiffs, specifically,

were exposed to harmful defects.” The O’Melveny team representing American Airlines was led by partner **Mark Robertson** and included partners **John Rousakis** and **Kelly Wood**, former partner **Susannah Howard**, counsels **Allison Bader** and **Charles Mahoney**, of counsel **Eric Rothenberg** and associate **Alexis Fasig**. The team representing Twin Hill includes **Robert Good**, **Tim Young**, **Jordan LaClair** and **Lynn Geerdes** of Lewis Brisbois, as well as **Francis “Frank” Citera** of **Greenberg Traurig**.

Shout-out to litigators at Cooley led by **Brian French** and **Shannon Eagan**, who scored an early summary judgment win for software client Freshworks Inc. in securities litigation brought in the wake of its November 2021 initial public offering, which priced at \$36 per share. Last week, U.S. District Senior Judge Charles Breyer in San Francisco held that “no omission by Defendants caused Freshworks’ stock price to drop below the IPO price,” and that Section 11 plaintiffs “cannot recover for drops above the IPO price.” The Cooley team included associates **Linh Nguyen**, **Andy Johnson**, **Trevor O’Bryan**, **Anne Bigler**, **Anuva Ganapathi** and **Claire Olin**.

Shout-out to lawyers at **Democracy Forward** and **DeLuca, Weizenbaum, Barry & Revens** who secured a preliminary injunction this week on behalf of nonprofits that received grants under the Biden-era Inflation Reduction Act and Infrastructure Investment and Jobs Act that saw funds frozen by the Trump administration. “Agencies do not have unlimited authority to further a President’s agenda, nor do they have unfettered power to hamstring in perpetuity

two statutes passed by Congress during the previous administration,” wrote U.S. District Judge Mary McElroy in Providence, Rhode Island. The Democracy Forward team includes **Jessica Morton**, **Kevin Friedl**, **Robin Thurston** and **Skye Perryman**. The DeLuca, Weizenbaum, Barry & Revens team includes **Miriam Weizenbaum** and **Amato DeLuca**.

Shout-out to the litigators at **Hueston Hennigan** who got an appellate win backing up a \$311 million judgment and injunction the firm won for client Monster Energy Co. in a false advertising case against Vital Pharmaceuticals Inc., or VPX Sports, the maker of the Bang energy drink. The Ninth Circuit this week turned back challenges to the trial court’s evidentiary rulings and affirmed the judgment. Hueston Hennigan partner **Allison Libeu** argued the appeal for Monster Energy. The team included **John Hueston**, **Moez Kaba**, **Sourabh Mishra**, **Justin Greer** and **Christopher Galeano**.

Shout-out to a **Weil, Gotshal & Manges** team led by **Yehudah Buchweitz**, who represents CBS Studios in its showdown with Sony over the distribution rights to the “Jeopardy!” and “Wheel of Fortune” television game shows. This week, California’s Second District Court of Appeal stayed a lower court ruling that would have allowed Sony to distribute the shows and stop delivering episodes to CBS. The Weil team on the matter includes partners **Bambo Obaro**, **Ben Marks** and **Josh Wesneski**, as well as associates **Joe Rausch**, **A.J. Green**, **Amar Adam** and **Michelle Berardino**.