

# Daily Journal

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## Lawyers in California 2016

### CORPORATE

BARBARA L. BORDEN

COOLEY LLP | SAN DIEGO

SPECIALTY: MERGERS & ACQUISITIONS

**B**orden, a partner and head of Cooley's mergers and acquisitions practice, describes herself as "a quarterback."

"I like the whole tactical aspect," she said. "I'm good at thinking ahead."

She represents clients on both the buy and sell side, with a specialty in biotech and pharmaceuticals. Borden and her team have advised on acquisitions worth more than \$20 billion over the last year. This includes Jazz Pharmaceuticals PLC's \$1.5 billion deal for Celator Pharmaceuticals Inc. and Cardioxyl Pharmaceuticals Inc.'s nearly \$2.1 billion sale to Bristol-Myers Squibb.

In any given week, she might find herself talking to a corporate board about the fiduciary process, structuring contingent payments or negotiating a deal.

She said the industry will always be a busy one for M&A because of the market forces it operates under. On the one side, there are large, capital-intensive pharmaceutical companies always looking for "late-stage, low-risk assets." On the other are many small, innovating life sciences firms that are

trying out new therapies but aren't well set up to commercialize their products.

Bringing the two together helps new drugs to market. Part of her job is to look out for other parties — often research universities — who may have claims on profits or intellectual property.

"When you're evaluating a company, you have to understand all of these obligations," Borden said. She added she's never had a transaction "blow up" due to fraud, as has sometimes happened in the industry. But she was part of a deal where the other side failed to disclose "bad feedback" on a product from the Food and Drug Administration, which drove down the value of the stock her client received days after the deal was completed. She was able to restructure the contract, so her client was compensated with additional shares.

"There is no piece of paper that covers every problem," Borden said. "You're trying to put your client in the best position to not be disadvantaged when problems arise."

— Malcolm Maclachlan



# Cooley