

# THE AMERICAN LAWYER

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## SPECIAL REPORT

# LITIGATION

## ★ DEPARTMENT OF THE YEAR ★

The American Lawyer's biennial selection of the nation's top litigation departments and litigators.

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### How We Select the Litigation Department of the Year

This year's contest covers litigation matters between Aug. 1, 2013, and July 31, 2015. Last April, we contacted all Am Law 200 firms and some smaller firms, soliciting entries in this year's general litigation contest, as well as practice-specific contests in intellectual property, white-collar/regulatory work and product liability.

Firms were asked to provide, among other things, lists of and details about their 12 most notable results, a description of their two biggest losses, details of new matters, references and information about the size and financial performance of their practices or departments. They were also asked to submit an essay, arguing for their selection as Litigation Department of the Year.

We received 64 submissions in the general litigation contest, 25 in the intellectual property contest, 10 in the white-collar/regulatory contest and nine in the product liability contest. Teams of American Lawyer reporters and editors evaluated all of the submissions on the basis of reporting and conversations with clients and colleagues at rival firms, among other things. The general litigation category was evaluated by David Bario, Emily Barker, Michael Goldhaber, Jennifer Henderson and Ginny LaRoe. This team also selected

the Litigators of the Year and the Honorable Mentions. The IP category was evaluated by Scott Flaherty, Nell Gluckman and Lisa Shuchman. White-collar/regulatory was evaluated by Jenna Greene, James Schroeder and Julie Triedman, while product liability was evaluated by Susan Beck, Kim Kleman and MP McQueen.

On the basis of their reporting, the teams pared the submissions to a short list of finalists: six in general litigation, four in IP, three in product liability and two in white-collar/regulatory.

A three-person panel from each finalist firm then met with the reporter teams in their category in two-hour question-and-answer sessions in our office. The purpose of the sessions was to elaborate on and clarify the submissions. After the sessions, each reporting team then embarked on a final round of reporting and interviews before meeting to select the winner in its respective categories.

Our next Litigation Department of the Year contest will be published in January 2018 and will cover matters from Aug. 1, 2015, to July 31, 2017. Solicitations and instructions for submissions will be sent out in the spring of 2017.

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# LITIGATION

INTELLECTUAL PROPERTY

\* *Finalist* \*

## Team Players

The secret behind Cooley's success: No stars, just talent.

By Scott Flaherty

**C**APITALIZING ON LEAN STAFFING AND WORKING TO DEVELOP a new generation of top litigators, Cooley has set itself apart with a recent trio of high-stakes trial victories. And it has done so by relying on a broad array of lawyers with both trial and scientific expertise. "If you look at our cases, it's not one lawyer that's the common denominator," says partner Michael Rhodes. It's a formula that appears to be working: Although less than 10 percent of the firm's lawyers practice in the department, IP litigation accounts for roughly 19 percent of Cooley's revenue.

**SIGNIFICANT CASES:** Representing Gilead Sciences Inc. in a heated arbitration battle with Hoffman-La Roche Inc., a Cooley team led by firm chairman Stephen Neal protected the patent rights on Sovaldi, a hepatitis C therapy that Gilead had spent

\$11 billion to acquire in 2012. In August 2014, an arbitration panel sided with Cooley's client, finding that Roche had failed to establish a patent or contact claim that entitled it to rights over the drug.

Cooley also led repeat client Facebook Inc. to a trial victory in a patent infringement case involving the social network's popular "Like" and "Share" features. The firm secured a defense verdict in June 2014, beating back damages claims of up to \$500 million from Rembrandt Social Media LP.

**WHAT CLIENTS SAY:** "Cooley is well-known for having a deep bench when it comes to pharmaceuticals and biotech," says Brett Pletcher, Gilead's general counsel, who adds that the firm pairs its industry and scientific expertise with trial lawyers, including Neal and Rhodes, who are among the country's best.

Neal's performance as lead trial counsel in Gilead's arbitration against Roche was "one of the most impressive things I've seen in a courtroom," Pletcher says. "I enjoyed watching him every single day."

**BIGGEST LOSS:** Following a more than five-year fight in federal court and at the U.S. International Trade Commission, Cooley and its client HTC Corp. came out on the losing side of a patent infringement verdict handed down in October 2013. The jury found HTC liable for infringing patents co-owned by Technology Properties Ltd. and Patriot Scientific Corp.

**NEW MATTERS:** Cooley is lead counsel for OculusVR, a Facebook subsidiary that makes the Oculus Rift virtual reality headset, in a dispute between Oculus' founder and a backer. The firm represents Horizon Pharma in suits against four generics competitors over an arthritis drug that accounted for more than half of Horizon's sales in 2014.



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#### Practice Group Size and Revenue:

Partners 26 Associates 39

Practice Group as Percentage of Firm: 8.3%

Percentage of Firm Revenue, 2014 19%

**FROM LEFT** Stephen Neal, Tim Teter, Heidi Keefe, Michael Rhodes and Stephen Smith