

Another Stacked Lineup of Litigation of the Week Runners-Up and Shout Outs

By [Ross Todd](#)
August 20, 2021

Our first runners up this week are **Sam Baxter** of **McKool Smith** and **Jason Sheasby** of **Irell & Manella**, who won [Litigator of the Week](#) honors last August for landing a \$506 million damages verdict for PanOptis after a jury in the Eastern District of Texas found that Apple had willfully infringed five patents essential to the 4G LTE wireless standard. After U.S. District Chief Judge Rodney Gilstrap ordered a retrial on damages, a separate East Texas jury hit Apple with another 9-digit damages award of **\$300 million** this week. The trial team also included **Annita Zhong**, **Ingrid Petersen** and **Andrew Strabone** of Irell & Manella and **Steve Pollinger**, **Jennifer Truelove** and **Jonathan Yim** of McKool Smith.

A trial team at Kirkland & Ellis led by Hariklia “Carrie” Karis, Rush Howell and Rachel Haig lands a runners-up spot this week for getting a defense win for Actavis in a case where an Illinois man was seeking more than \$78 million in damages. Plaintiff Brad Martin claimed that Actavis’s testosterone replacement product Androderm caused his 2013 heart attack. But after two weeks of trial and less than an hour of deliberations, a federal jury in Chicago on Tuesday returned a complete defense verdict for Actavis. This marks the first defense victory in a testosterone replacement therapy trial

involving a heart attack after two prior 9-figure verdicts.

Andrew Gordon and Jaren Janghorbani of Paul, Weiss, Rifkind, Wharton & Garrison also get runners-up honors this week for their trial win for Symbiont.io Inc., a blockchain-backed “smart securities” startup. Symbiont was up against financial data analytics company IHS Markit Ltd. and Ipreo Holdings, a financial services software company Markit acquired in 2019. Symbiont and Ipreo previously had a joint venture. Symbiont claimed that the acquisition by Markit violated a non-compete agreement that was part of the joint venture. After a four-day remote trial conducted in December, Vice Chancellor J. Travis Laster of the Delaware Court of Chancery sided with Symbiont and awarded \$142 million in damages to the joint venture, which Symbiont half-owns. The Paul Weiss team includes counsel Daniel Mason and associates Maia Usui, Katarina Broeksmit and Rich Medina. William Lafferty, Susan Waesco and Sara Toscano of Morris, Nichols, Arsht & Tunnell were Symbiont’s Delaware counsel.

Here’s a shout out to Douglas Rappaport of Akin Gump Strauss Hauer & Feld who knocked out claims against Baker Brothers Investments, a minority shareholder in Genomic Health Inc.,

in a case springing from Genomic's \$2.8 billion merger with Exact Sciences Corp. Vice Chancellor Joseph Slights of the Delaware Chancery Court this week turned back claims that Baker Brothers and its board members leveraged its large minority stake in Genomic to force a below-market price and follow through on a longtime desire to exit its investment. Akin counsel Kaitlin Shapiro and associate Andrew McWhorter also represented Baker Brothers in the matter. Exact Sciences Corp. and Genomic, which also succeeded in getting the case knocked out on a motion to dismiss, were represented by counsel from Skadden, Arps, Slate, Meagher & Flom including Robert Saunders, Stefania Rosca and Matthew Conrad.

Jim Grant, Ross Siler, and Sarah Cox of Davis Wright Tremaine scored a shout out-worthy win for client TVI Inc., the operator of the nationwide for-profit, thrift-store chains Value Village and Savers, in long-running litigation brought by the Washington Attorney General Bob Ferguson. Ferguson's office claimed that TVI misled consumers into thinking the stores were nonprofit rather than for-profit. But this week the Washington Court of Appeals knocked out the last of the remaining claim against TVI. "We conclude that TVI's marketing inextricably intertwines commercial speech and charitable solicitation and that statutes regulating charitable solicitation must survive strict constitutional scrutiny," the court concluded.

Shout out to a team at Latham & Watkins that got a motion to dismiss granted in a securities suit filed against Enphase Energy Inc., its CEO and CFO

shortly after a critical report about the company's accounting was published by short-seller Prescience Point Capital Management. U.S. District Judge Beth Labson Freeman in San Jose, California, found "the allegations—derived directly from a report from a short seller—do little more than cherry pick financial data and present such data in a manner favorable to plaintiff's theory." The Latham team includes partners Colleen Smith, Michele Johnson, Gavin Masuda and Matthew Rawlinson, and associates Daniel Gherardi and Clarissa Lu.

Shout out to a team at Manatt, Phelps & Phillips that scored a win at the California Supreme Court putting to rest a long-running lawsuit against hospital chain Dignity Health. The court unanimously held that a hearing officer in a hospital's physician peer review proceedings isn't presumed to be biased just because he or she might be hired for future work at the same hospital or ones affiliated with it. The Manatt team included Barry Landsberg, who argued the case, Joanna McCallum, Doreen Shenfeld and Craig Rutenberg.

Here's a shout out to Kenneth Meyer and Ryan Richman of McCarter & English, who got a major product liability win this week for aerial lift maker Genie, a subsidiary of Terex. U.S. District Judge Esther Salas in Newark, New Jersey, granted Genie's motion for summary judgment in a case where one of the company's lifts fell over while the plaintiff was on the platform. The ruling comes in the wake of the judge granting Genie's motion to exclude the plaintiff's expert's witness.