

THE AM LAW LITIGATION DAILY

Litigator of the Week Runners-Up and Shout-Outs

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July 24, 2026

[\[Link\]](#)

First up this week is a trial team at Bartlit Beck that represented Viasat Inc. in a patent infringement case against Kioxia, one of the world's largest makers of NAND flash memory cards. Last week, after a four-day trial, federal jurors in Waco, Texas found that Kioxia infringed Viasat's patent covering error correction technology for flash memory aimed at enhancing the reliability and lifespan of the storage devices. Jurors [awarded Viasat \\$229 million](#) in damages for past infringement and 3.5% ongoing royalty through the patent's expiration in 2032. The Bartlit Beck team included Scott McBride, Matthew Ford, Nosson Knobloch, Meg Fasulo, Nevin Gewertz and Mac LeBuhn, with J. Travis Underwood of Gillam & Smith conducting voir dire for Viasat, putting on the company's damages expert and cross-examining the other side's expert.

A Kirkland & Ellis team led by Devora Allon, Kevin Neylan and Cole Carter secured an appellate ruling [vacating a class certification order](#) in a RICO lawsuit against pharmaceutical client GlaxoSmithKline with estimated damages of around \$1 billion. Plaintiffs, a group of third-party payors who cover prescriptions for GSK's blockbuster diabetes drug Avandia, claimed the company misrepresented its cardiovascular risks and benefits, causing more health care providers to prescribe it over cheaper alternatives. This week, the Third Circuit—joining the First, Second and Ninth Circuits—concluded that plaintiffs need to establish causation, “not merely correlation,” when using statistical evidence to prove the defendant was responsible for their injuries in pharmaceutical fraud RICO class actions. The appellate team included Jay Lefkowitz, who retired from Kirkland while the case was pending, and Kyle Dolinsky and Robin Sumner of Troutman Pepper Locke.

A Proskauer Rose trial team led by partner Keisha-Ann Gray represented Meta Platforms in the first employment discrimination case the company has taken to a jury verdict. After more than 50 days of trial, San Francisco Superior Court jurors deliberated less than one day last week before returning [a complete defense verdict](#), rejecting former product manager Talia Kennedy's claims for gender discrimination, hostile work environment and retaliation. She had been seeking more than \$500 million, including punitive damages. The Proskauer trial team included partners Nicole Eichberger, Patrick Lamparello, Susan Gutierrez and Steve Hibbard; senior counsel Christina Assi and Jonathan Slowik; special counsel Melanie Speight and Margaret

Swetman; associates Hayden Bashinski, Lexie Reynolds, Margo Richard, Lale Brown, Cooper Halpern and Courtland Cuevas; and trial specialist Jeff Soldridge.

Sticking with Meta for the moment, Sonal Mehta and her team at Wilmer Cutler Pickering Hale and Dorr helped knock out a pair of lawsuits brought on behalf of consumers who claimed they fell for pump-and-dump schemes advertised on Facebook and Instagram and carried out on WhatsApp. Plaintiffs claimed that Meta's targeted advertising tools made the company an integral participant in the fraud by connecting the schemes' orchestrators with retail investors, materially contributing to their losses. But in [a decision last week](#), U.S. District Senior Judge William Orrick III dismissed cases tied to two specific schemes, holding that the claims were barred by the Securities Litigation Uniform Standards Act of 1998. Orrick pointed out that he agreed with a decision from his colleague, Judge Richard Seeborg, who [dismissed a similar suit](#) on those grounds last month. The Wilmer team, which handled all three cases, included partners Ari Holtzblatt and Jessica L. Lewis, as well as counsel Allison Schultz and Nathaniel Reisinger.

Shout-out to a Davis Wright Tremaine team led by partners Katherine Bolger and James Rosenfeld that defended The Guardian from defamation claims after [the news organization reported](#) that UnitedHealth Group secretly paid bonuses to nursing homes to help reduce hospitalizations for residents. Delaware Superior Court Judge Calvin Scott Jr. [this week granted](#) The Guardian's motion to dismiss, finding that all the challenged statements were "fair and true" and, in one instance, protected by the fair reporting privilege for protected statements. The Davis Wright team included Chelsea Kelly, Sydney Clarke, Rachel Carpmann and Nimra Azmi (who is now with Spotify), with support from local counsel Daniel Kirshenbaum and Makayla Monica of Young Conaway Stargatt & Taylor.

Shout-out to litigators at Dunn Isaacson Rhee and Skadden, Arps, Slate, Meagher & Flom, representing Uber and Lyft respectively, in a legal challenge to a New York City law aimed at limiting the reasons the ride-sharing companies may deactivate drivers, and the procedures for them to do so. U.S. District Judge Gregory Woods in Manhattan [this week held](#) the city law violated the U.S. Constitution's Contracts Clause since it protects a narrow class of drivers, but does not advance broader social or economic interest. Woods, who granted a preliminary injunction barring the city from enforcing the law, wrote that "the record shows that the City Council did not consider the Law's effects on the broader citizenry of New York City, such as passengers and pedestrians—groups whose safety depends in part on swift deactivation of drivers accused of assault, fraud, or dangerous conduct." The Dunn Isaacson Rhee team includes partners Karen Dunn, Meryl Goverski and Kyle Smith; associates Leah Hibbler and Linda "Ellie" Halfacre; and paralegal Jerren Holdip. Dunn argued the preliminary injunction motion for Uber. Skadden's team includes partner Alex Drylewski, counsel Jacob Lefkowitz, associates Eleni Pappas and Emily Vaughan and legal assistant Dori Simone. Drylewski argued on behalf of Lyft.

Shout-out to a pro bono team at Latham & Watkins and co-counsel at the National Veterans Legal Services Program for securing [a precedential Federal Circuit victory](#) for Marine veteran William Bee. The court vacated a ruling upholding the denial of Bee's request for medical disability retirement, holding that military correction boards applied the wrong legal standards and failed to give proper "liberal consideration" to evidence of service-connected PTSD and traumatic brain injuries. The decision is expected to make it easier for similarly situated veterans to pursue disability retirement claims. The team included Latham partner Kyle Jefcoat; counsel Darryl

Steensma; associates Ashley Gebicke and Jack Ring; and former associate Michael Clemente, who argued the appeal, as well as NVLSP's Rochelle Bobroff, Esther Leibfarth and Matthew Handley.

Shout-out to a team of whistleblower lawyers representing Edelweiss Fund LLC in a long-running suit against Wall Street banks brought under the New Jersey False Claims Act. The state's Supreme Court last week [revived claims](#) accusing big banks, including JPMorgan Chase, Citigroup, Wells Fargo, Bank of America and Morgan Stanley, of "robo-resetting" interest rates for Variable Rate Demand Obligations to artificially high levels. Frank Amanat of Motley Rice argued the appeal for Edelweiss, with Dan Levy of McKool Smith leading the briefing, alongside Robert Magnanini of Stone & Magnanini, Erica Blachman Hitchens of Whistleblower Law Collaborative and Ari Yampolsky of Whistleblower Partners.

And here's a big shout-out to a pro bono team at O'Melveny & Myers that secured a ruling from California's Fourth District Court of Appeal reversing a family court's order that dismissed their client's domestic violence restraining order petition without ruling on the merits. The trial court dismissed the restraining order action "in the interest of justice" because neither side had completed putting on its case in the allotted time. "The courts must be sensitive to allegations of domestic violence, root out the truth in each case, and protect victims when possible," wrote Administrative Presiding Justice Judith McConnell, overturning the decision below in [a published opinion](#) this week. "Victims should be guided through our judicial system, not herded." The O'Melveny team was led by partner David Kirman. Second-year associate Josh Cayetano led the briefing and argued the appeal. The team included counsel Shelby Cummings and associate Molly Shuminer, with co-counsel from the Family Violence Appellate Project, led by Shuray Ghorishi, Jennafer Dorfman Wagner and Jodi Lewis.