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WINNER

LITIGATION

PRODUCTS LIABILITY

FROM LEFT Francis Citera, Lori Cohen, Sara Thompson, Daniel Smulian

By Amanda Bronstad

## PUNCHING ABOVE ITS WEIGHT

**Greenberg Traurig's products group is small but mighty.**

**DEPARTMENT SIZE AND REVENUE:**

PARTNERS 94 ASSOCIATES 42 OTHER 11  
DEPARTMENT AS PERCENTAGE OF FIRM 7.4%  
PERCENTAGE OF FIRM REVENUE, 2016: WND

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**WITH 147 LAWYERS, GREENBERG** Traurig's products liability practice represents only 7.4 percent of the firm's head count. But when the chips are down, its products liability litigators pack a big punch.

"When you need someone to dive into a new case, parachute in to a challenging jurisdiction, no matter who you're up against, we can do that," says Lori Cohen, a shareholder in Atlanta who heads Greenberg Traurig's pharmaceutical, medical device and health care litigation practice group. The firm has done just that in trials involving Teva Pharmaceutical Industries Ltd.'s gastric reflux drug metoclopramide and Medtronic Inc.'s spinal cord devices.

Cohen, who boasts a 57-1 trial record, is "one of the best trial lawyers in this space," says Jason Marks, head of litigation and government investigations at Valeant Pharmaceuticals International Corp. The company retained Greenberg Traurig to handle lawsuits alleging that products in its Shower to Shower line, purchased from Johnson & Johnson in 2012, caused ovarian cancer. "Personally, working with her and having her on the team is a constant safeguard if I need to take a case to trial, and let the plaintiffs know there's a threat of trial," Marks says.

Cohen got a defense verdict in early 2016 for C.R. Bard Inc., which faced more than 15,000 lawsuits alleging that its pelvic mesh devices caused pain and subsequent surgeries. Bard had lost a \$5.5 million verdict in 2012 in a case handled by Reed Smith. Last year's trial was in Missouri state court—"typically a challenging jurisdiction for the defense," Cohen says. After two months of trial the jury found for defendants Bard and Boston Scientific Corp. The verdict helped Bard settle a large chunk of the suits, Cohen says.

"Lori is easy to get along with, always prepared, and she is a great trial lawyer," says co-counsel Shook, Hardy & Bacon's Robert Adams, who represented Boston Scientific.

Then manufacturer Takeda Pharmaceuticals North America Inc. turned to Cohen to defeat allegations that its diabetes drug Actos caused bladder cancer. In 2014, Takeda lost when a Louisiana jury came out with a \$9 billion verdict in the first federal trial over Actos. Takeda was responsible for \$6 billion of the award. A federal judge in that case also had sanctioned

Takeda, represented by another firm, Sidley Austin, for deleting evidence relevant to the litigation.

Those orders, which resulted in a jury instruction, found their way into the Nevada state courtroom, where Takeda faced off against prominent Las Vegas plaintiffs lawyers Robert Eglet and Will Kemp. The plaintiffs had opted out of a \$2.4 billion settlement that Takeda reached months earlier to resolve about 9,000 other Actos cases. And they wanted \$2 billion in damages.

Greenberg Traurig was retained about six months before trial and was co-counsel with Snell & Wilmer.

"We got called on to step in and take over the trial part," Cohen says. "That's our calling card—what we're known for."

After nearly two months of trial, in the middle of the defense's case, both sides reached a confidential settlement in November 2015.

The Greenberg group traditionally has focused on medical device and pharmaceutical firms, but its lawyers delve into other industries, particularly consumer goods. Last year, Greenberg Traurig defeated certification in a consumer class action over allegedly defective evaporator coils against Rheem Manufacturing Co., which makes air conditioning products.

The firm also got a judgment in favor of its client following a bench trial in a case in which Alaska Airlines Inc. flight attendants contended their uniforms, manufactured by a subsidiary of The Men's Wearhouse Inc., made them sick.

This year, the U.S. Court of Appeals for the Seventh Circuit denied certification of a class action that alleged eye droppers used for the treatment of glaucoma were too large, forcing patients to spend more money. Greenberg Traurig's Gregory Ostfeld in Chicago argued for the defendants, which included client Alcon Laboratories Inc., and three other companies represented by other firms.

In a highly publicized opinion written by Judge Richard Posner, the Seventh Circuit remanded the case for dismissal. Another similar case, argued by a different law firm, resulted in a loss for the defendants, but other courts have since followed Posner's ruling.

"Judge Posner had it right, and we always thought this was a very silly litigation," Cohen says.

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