

## Diversity – Corporations

# Energizing A Litigation Group – Results – Part II

*The Editor interviews Lisa Martinez Wolmart, Lauren Freeman-Bosworth, Elizabeth Hall, Beth Trent, Jonathan Wasserman and Paul Weissman, Litigation and Conflict Management, Schering-Plough.*

*Editor's Note: Last month, PD Villarreal, Vice President and Associate General Counsel, Litigation and Conflict Management, Schering-Plough, outlined the program for energizing the Schering-Plough litigation group. In Part II, we publish the responses of some of the members of that group (pictured in Part I) which reflect the steps that have already been taken to achieve that goal.*

**Editor:** Please tell us about your background and your role in Schering-Plough's litigation group.

**Martinez Wolmart:** I came to Schering-Plough with extensive experience as outside counsel, having spent a total of 15 years in private practice, most recently as a partner at Pitney Hardin. My experience includes handling various complex litigation matters including commercial, business disputes, business torts, franchise litigation, restrictive covenants, and trade secrets.

I spend approximately 30% of my time managing my litigation docket (including managing all of the company's

product liability litigation) and the rest advising management. I like the philosophy of Tom Sabatino, our general counsel, and PD Villarreal, that an in-house litigator's most important role is to partner with our business clients, and provide sound legal advice to help them achieve their business goals within the bounds of the law.

**Freeman-Bosworth:** Prior to joining Schering-Plough, I worked as a litigator at Kramer Levin Naftalis & Frankel in New York where I handled complex securities litigation, environmental disputes, white collar criminal defense, and other commercial cases.

I work on major complex commercial cases. I spend most of my time either discussing litigation concerns with the business people or working directly with outside counsel on litigation matters.

**Hall:** I clerked immediately after graduating and then joined Lowenstein Sandler's litigation department. A year later, I received a call about the position at Schering, which I viewed as a unique opportunity for a relatively new lawyer. I support PD, Lisa and Jonathan in the management of large litigations and have direct responsibility for some smaller disputes. I also spend time working closely with our business people to resolve potential disputes before they escalate to litigation.

**Trent:** I began my career at Cravath Swaine & Moore, then worked at GE

Capital and most recently at PriceWaterhouseCoopers as a corporate governance and compliance consultant. When PD told me that Schering was expanding its litigation department, it was a great fit for me.

I handle the company's Average Wholesale Price (AWP) cases. This type of litigation is endemic in the pharmaceutical industry. These cases allege that the AWP used by pharmaceutical companies for certain drugs results in unlawful inflation of certain government drug reimbursements. We recently won a case in West Virginia because we were able to explain to the jury that our use of the AWP was entirely lawful.

**Wasserman:** My first legal job was with the U.S. Department of Justice in their honors program. I was there for three years and then went to work for Lowenstein Sandler until 2000 when I joined Schering-Plough's litigation group.

I am currently Senior Legal Director for Antitrust and Litigation and handle the company's antitrust litigation, antitrust counseling and general litigation. I also counsel our client on licensing and acquisition opportunities and, as an example, provided antitrust counsel on a deal with Bayer whereby we are now the exclusive distributor of their primary care products in the U.S., which include Levitra, Avelox, and Ciprofloxacin.

**Weissman:** I was a prosecutor in the U.S. Attorney's Office in New Jersey for 19

years before I came to Schering-Plough. I specialized in white-collar prosecutions especially large securities fraud, bank fraud, and FDA related fraud cases.

I have been at Schering-Plough for four years and work primarily on criminal investigations launched by the U.S. Attorney's Offices in Philadelphia and Boston. I also work with our compliance people and oversee internal investigations.

**Editor:** What actions contribute to energizing the Schering-Plough litigation group?

**Freeman-Bosworth:** We have a formal process for evaluating cases early on and bouncing those assessments off others in the group. By representing the same client, you can see consistent patterns in disputes or potential disputes that may confront the company. We can then counsel our clients proactively to address ways to avoid litigation. That is our preventative law role.

We partner with the business people to work with them in making decisions about specific litigation strategies. We also work with our business people in deciding whether to fight a particular case or to resolve it for business or other reasons. The culture within the legal department encourages an open and free-flow of ideas. It is often useful for me to get another person's feedback on something I

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## Brown Raysman Millstein Felder & Steiner LLP announces the expansion of its New York Office with the addition of the attorneys from Ross & Cohen, effective February 1, 2006.

We welcome our new partners, counsel and associates:

**JOSE A. AQUINO**

**MARK CANIZIO**

**MICHAEL L. CHARTAN**

**LAWRENCE CHIARELLI**

**FREDERICK COHEN**

**CHARLES FASTENBERG**

**MICHAEL J. HOGAN**

**DENNIS A. KONNER**

**KENNETH H. LAZARUK**

**JAMES LOTITO**

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**JOSEPH A. MASCIA**

**ALLEN ROSS**

**JESSICA SINGH**

**JENNIFER STEIN**

**JOHN S. WOJAK, JR.**

*Allen Ross and Frederick Cohen will join Brian Donnell as Co-Chairs of Brown Raysman's long-standing national construction practice now consisting of over 30 construction attorneys. The firm continues to provide its clients with the experience of over 250 attorneys on both the East and West Coasts and a multi-disciplinary range of legal services in the areas of real estate, construction, corporate, litigation, information technology, intellectual property, bankruptcy, trusts and estates, and labor and employment law.*

For more information on the firm's construction and other practice areas, please visit our Web site at [www.brownraysman.com](http://www.brownraysman.com).

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## Energizing

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am working on so I can learn from their experiences.

We know the company and its people, so we can save outside counsel time in locating the right information or witness. We handle that process internally and bring outside counsel in once we have identified the right individuals, alerted them that they might be contacted by our outside counsel and, to the extent appropriate, explained why. People in the company feel a level of comfort if they are first briefed by lawyers in the legal department before outside counsel contacts them.

**Martinez Wolmart:** I am able to provide advice on disputes early before they become a crisis. Because I and other members of the litigation group manage groups of cases and share our experiences, we have an overview that enables us to develop common strategies for managing litigation and moving cases forward.

Our convergence program with outside counsel will provide additional opportunities for us to benefit the company. We will assist the firms that are selected to become more familiar with the company, its people, its needs and expectations. Having participated in convergence processes as outside counsel, I know from experience that it is an effective way of increasing the cross-fertilization of ideas not only between us and the firms, but also among the firms. By a mutual sharing of information, the company can reduce the costs involved when firms reinvent the wheel. The litigation group will play a key role in assuring that the company realizes maximum value from the convergence program.

**Hall:** PD is an advocate of having the litigation group intervene early in disputes. Early involvement allows us to gain a greater understanding of the business interests at stake and to develop stronger relationships with our clients. It also enables us to work more effectively with our outside firms to develop litigation strategies that are aligned with the goals and interests of the Company.

**Trent:** AWP cases have been filed all over the country, so we work with our national counsel to manage them. I work closely with them to determine our strategy and how it should be implemented. They help streamline the cases for trial, and I serve as a sounding board for their trial arguments.

**Wasserman:** My role is to be active in the litigation we manage so we know as much as, if not more than, outside counsel. We participate in interviews and discussions with all potential witnesses in a case. I review the documents that have been produced and then I participate in the depositions of witnesses as well as the filing of necessary motions. As in-house counsel, I like to think that I know the client better than anyone whereas a law firm litigator only sees the company through the peephole of the litigation. The insights that I gain as a result of my active involvement in litigation means that I have first hand experiences that enrich my role in our compliance programs and in counseling.

**Weissman:** It is particularly important for pharmaceutical companies to have

someone like myself who is versed in criminal law as part of the in-house litigation team. Pharmaceutical companies have been under scrutiny from various quarters. We operate under consent decrees and a corporate integrity agreement, which provides for the company to be monitored by an independent review organization.

The process is further complicated because the settlements we have entered into are often for claims under the Medicaid program, which is a joint federal and state program. A large portion of the settlement amounts goes to the states so you also need to have independent agreements with each state. I am called upon to interpret the terms of the various documents and to advise with respect to violations or potential violations.

Although we have a state of the art compliance system, it is important to keep in mind that a compliance system is not a total guaranty that an employee will not do something contrary to the company's policy. If this happens, I am called in to advise as to the steps that must be taken to contain those situations. It may be necessary to reeducate, train, and discipline those involved. You also need to self-report to the appropriate government body when required by law or the corporate integrity agreement. That is a tough regime because it forces you to decide whether something is a probable violation. That line is often not clear so you may have to report an action which you do not believe is a violation.

**Editor:** The litigation group is quite diverse, both as to race and gender. Why is this beneficial?

**Trent:** As a woman and a minority it is wonderful to work at a place where diversity is not just a legal matter or a numerical objective. The dedication of the company's top management to diversity leads to better outcomes. Because it is more sensitive to the diverse nature of its customers, it is better able to meet their needs. Overall, diversity stimulates creativity so we can meet the challenges the company faces in a global marketplace. For example, the company is active in the development of drugs for AIDS treatment. That involves dealing with developing countries as well as the developed world. Having a diverse workforce allows us to better understand and respond to issues that arise in our global markets.

**Editor:** Would you comment on the importance placed by Schering-Plough on its reputation, including involvement in community service initiatives?

**Trent:** Corporate reputation is another area where Schering is a leader. That is an essential and integral part of the ability to do business successfully. It cannot be a façade but must affect every element of the business. That is particularly true for pharmaceutical companies because we are highly regulated. Also, we are constantly being examined by the media in terms of health and public issues so it is very difficult for a pharmaceutical company to succeed without having a good reputation.

**Hall:** I have found that Schering has a genuine interest in community service. A recent example is a project undertaken by the law department to refurbish an apartment for young adults recovering from serious mental illnesses. The day-long project gave us an opportunity to give back to the community as a team led by our general counsel and his wife, who showed true dedication to the project.

## Partners Notes

### McCarter & English Signs On For LawyerLinks Advantage

Lawyer Links, LLC has announced that McCarter & English, LLP, the largest law firm in New Jersey, has signed on to utilize the company's uniquely thorough and time-saving online corporate law resource, LawyerLinks Advantage<sup>sm</sup>. The industry's first topic-oriented research tool, LawyerLinks Advantage provides corporate attorneys with instant access to relevant legal precedent, practice and source materials.

"The content is well organized, accurate and thorough, and is very easy to use," said Karen Wojan, Electronic Services/Reference Librarian at McCarter & English.

LawyerLinks Advantage includes a variety of enhanced and easy-to-use features that enable users to instantly find answers on point, study unfamiliar topics and keep up-to-date on the latest

industry developments. The site's comprehensive at-a-glance topic indexes – including deals, regulations, Sarbanes-Oxley, corporate governance, statutes, NYSE and FAQs, among others, are updated regularly to ensure the most accurate information.

Other benefits of LawyerLinks Advantage include cost-recovery Client/Matter ID tracking, detailed usage reports, auto log-off, and personalization and collaboration tools that allow users to access the service from any Internet browser. For added convenience, users can instantly email colleagues and clients with the links to their research results.

LawyerLinks Advantage is offered on a subscription or pay-as-you-go basis. For more information, visit [www.lawyerlinks.com](http://www.lawyerlinks.com) or call (877) 651-5331.

### Saul Ewing Elects Two Partners

Saul Ewing LLP has elected two attorneys to the firm's partnership, and named five attorneys special counsel. The promotions were effective in January.

Wayne E. Pinkstone, special counsel in the Labor, Employment, and Employee Benefits Practice Group in the Princeton office, has been named partner. Deborah L. Spranger, special counsel in the Business Department and co-chair of the Technology Transactions and IP Practice Group in the Chesterbrook office, was named partner.

The following Associates have been promoted to special counsel: Gregory J. Davis, Real Estate Department, Chesterbrook office; Dan Friedman, Litigation Department, Baltimore office; Kimberly A. Manuelides, Litigation Department, Baltimore office; Risa B. Greene, Litigation Department, Philadelphia office,

and Joseph C. Monahan, Litigation Department, Philadelphia office

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Saul Ewing attorneys Joseph C. Monahan and Karl S. Myers, both members of the Litigation Department in the Philadelphia office, have been appointed to serve on the Philadelphia Bar Association's Investigative Division of the Commission on Judicial Selection and Retention.

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Candice Toll Aaron has joined Saul Ewing as special counsel in the Litigation Department, resident in the firm's Wilmington, DE office. Ms. Aaron concentrates her practice in corporate litigation, with an emphasis on complex business and transactional litigation in the Delaware courts and Delaware governance.

### Fish & Richardson Most In Demand As Patent Litigation Firm, Survey Shows

Fish & Richardson P.C. recently was ranked number one in IP Law360's first annual survey of the most frequently hired patent litigation law firms in the U.S. According to the survey, Fish & Richardson "was by far the most in-demand patent litigation firm last year."

IP Law360, which is a newswire for IP professionals that covers developing stories in litigation, law, and policy, researched federal court dockets to assess the number of new cases each law firm took on in 2005. Fish & Richardson was named as lead counsel in 82 cases compared to 60 cases for Jones Day and DLA Piper and 45 cases for Howrey. Other firms in the top ten include: Greenberg Traurig with 44 cases, Foley & Lardner with 41 cases, McDermott Will & Emery with 41 cases, Sidley Austin with 41 cases, Kilpatrick Stockton with 40 cases, Morrison & Foerster with 39 cases, and Townsend and Townsend with 39 cases.

The survey also found that there was a "hefty work load for the top (IP) firms despite an overall drop in the volume of litigation." The volume of patent lawsuits dropped 11 percent in 2005. The drop reverses the trend of mounting patent litigation, which had risen 78 percent in the past decade.

Fish & Richardson has ranked number one on *IP Law & Business'* annual survey of top patent litigation firms for four of the past five years (since they began the survey) and number one on its list of top firms in patent cases at the International Trade Commission (a ranking that the publication began compiling last year).

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Fish & Richardson also announced that Joy M. Tassin has joined the firm in the Litigation Group. Ms. Tassin will focus her practice in the fields of chemistry, biochemistry, biology and pharmaceuticals.