

d.c. litigation departments

of the year

GENERAL LITIGATION FINALIST

LATHAM & WATKINS

LATHAM & WATKINS' HOT YEAR IN 2018

was marked by a series of wins for clients in cases where policy met the law, including a high-stakes challenge to a compelled warning label in California and an orphan-drug exclusivity case that firm leaders said brought a regulatory agency back into compliance with federal statute.

The results, though impressive, were hardly surprising for a firm that boasts a deep bench of former government attorneys and prides itself on team spirit and working across geographic lines.

"These are experienced people, with unique insights about how government operates," said partner Phil Perry, who led a number of efforts, including the orphan-drug litigation on behalf of client Eagle Pharmaceuticals Inc.

"There's no cultural barriers of any kind," he said. "It's part of who we are. There is no rivalry among our offices."

In the Eagle Pharmaceuticals case, Latham sued the Federal Drug Administration in D.C. federal court over the agency's refusal to recognize the exclusivity of a drug to treat rare forms of cancers.

The move, Latham's attorneys say, was not based on federal statute governing orphan drugs, but on a 25-year-old regime that had strayed from the law's actual intent. The court agreed with Perry and co-lead partners Andrew Prins and John Manthei that the FDA's position was based on criteria beyond federal statute and ruled that the agency had no choice but to grant its client the seven years of exclusivity it sought.

Perry says the case ended up "putting the FDA on a different course," but it also illustrated one of the firm's biggest strengths: anticipating what government attorneys will do and planning its courtroom attack accordingly.

"It makes for a fascinating practice, but one where you can instantly switch and understand what the government is doing and what their options are," he said.



DOUG GREENBURG, TARA D. ELLIOTT, AND PHIL PERRY

DIEGO M. RADZINSCHI/ALM

In California, Latham notched another win for client Monsanto Co. in a challenge to the state's listing of glyphosate under Proposition 65 as a chemical known to cause cancer, which required a warning label on Monsanto's Roundup weed killer.

Latham's team successfully argued that the compelled warning violated the First Amendment in light of the actual state of the science, because it was both factually controversial and misleading.

The district court ruled that the constitutional claim was likely to succeed and granted a preliminary injunction preventing enforcement of the warning, in what Latham says was the first time a federal court had enjoined a Proposition 65 warning requirement on First Amendment grounds.

Douglas Greenburg, co-chair of Latham's Washington, D.C., litigation and trial department, said both cases showed the firm's "commitment to vigorous advocacy," regardless of the forum: "It just illustrates the type of team we can put together for the right case."

—TOM MCPARLAND

firm facts

Name of firm: Latham & Watkins
Founded: Los Angeles
Total number of litigators: 838
Litigators as percentage of firm: 31%
Litigators as percentage in D.C.: 60%
Litigation partners firmwide: 226
Litigation associates firmwide: 570
Litigation counsel firmwide: 42
D.C. litigation partners: 69
D.C. litigation counsel: 14
D.C. litigation associates: 134

keys to success

- Our goal is the client's goal. Success can take many forms, depending on the client's needs, and Latham is highly attuned to those needs.
- By bringing together different minds rather than just one partner's natural instinct, clients benefit from a deeper pool of critical expertise, more forensic and accurate situational analysis, quicker decisions, and nuanced strategies.
- Being trial-ready, quick on our feet and flexible, and adjusting quickly and effectively when responding to fast-changing circumstances.

—Tara D. Elliott