

Life Sciences Group Of The Year: Latham & Watkins

By Dani Kass

Law360 (January 15, 2019, 3:08 PM EST) -- Latham & Watkins LLP was able to block Nevada from using Alvogen Inc.'s drug in a lethal injection, secured orphan drug exclusivity for Eagle Pharmaceuticals Inc. after a large fight with the FDA and advised a key generic-drug industry merger, earning the firm a spot among Law360's Life Sciences Groups of the Year.

Latham's life sciences practice includes some 250 of the firm's 2,700 lawyers, spread in 25 offices around the world. In the U.S., they're based largely in Massachusetts, California and Washington, D.C. The firm's partners stressed that their success is based on being able to provide a wide range of life sciences services, including corporate, transnational and intellectual property, as dictated by their clients' needs.

"We are structured in the way the clients demanded, in that each one of the core areas where health care and life sciences needs are, we're able to both domestically and internationally service those needs in a very coordinated way," partner John Manthei said. "It's hard pressed to find a week that goes by where [we're not on the phone] bringing all those different backgrounds, perspectives, depth and breadth of experience to bear for clients based on the increasingly sophisticated legal needs."

In September, the firm was able to get a last-minute injunction that stopped the state of Nevada from using Alvogen's drug midazolam in the execution of convicted murderer Scott Dozier. Alvogen, which had already been a client of the firm, emailed on a Saturday morning for help after finding out in a news report that midazolam would be used in the execution, partner Ken Schuler said.

"When an emergency like that comes up, being their go-to people across a whole bunch of jurisdictions on a matter that did require Ken to pull in people with different experiences — it's a great example of exactly what we're trying to build and exactly what we're trying to be for our clients," partner Charles Ruck said.

This was the first time a drugmaker was able to stop its product from being used in an execution, the firm said. Two other drugmakers involved in this specific drug cocktail weren't able to get injunctions, Schuler said. He said the success came down to the evidence they were able to produce, including a



letter warning the Department of Corrections not to acquire midazolam and texts between officials "that were very illuminating for the judge," Schuler added.

In June, a D.C. federal judge granted Latham's client Eagle orphan drug exclusivity for the chemotherapy drug Bendeka. The U.S. Food and Drug Administration had said Eagle wasn't eligible for the extra exclusivity aimed at drugs that treat rare diseases because it didn't prove clinical superiority, but Latham was able to prove that wasn't a requirement.

"You're suing the agencies — you don't just do it," Manthei said, adding that it takes "thought and consideration" to do so. "We like to think we work on the front end to make sure the administrative record is positioned so that if you ultimately do have to bring suit, you can be put in a position to succeed. You need to be careful when you do that, need to be thoughtful. It's not a path you go down unless you do have a reasonable expectation that you'll be successful."

The firm then represented Amneal Pharmaceuticals LLC as it merged with another of its clients, Impax Laboratories, to form the fifth largest generic-drug company in the U.S. The merger was announced in October 2017 and closed in May. The company is now estimated to bring in \$1.75 billion annually, Latham said.

"Impax was also a client of Latham & Watkins, so we're really putting together two of our clients to create an even bigger and better one," Ruck said. "The Impax guys allowed us to work for Amneal and we put the two companies together. They're now listed and trading healthily."

Then in October, Latham helped Guardant Health Inc. raise \$238 million in its initial public offering. The oncology company sold 12.5 million shares at \$19 each.

"We looked at a Series D round and attracted SoftBank, who came in and bought the entire round," Ruck said. "Once they came in, we really didn't need liquidity anymore to grow, but decided to take advantage of the positive market for large public companies, and I think we raised \$238 million and I think it's a company valued at over \$1 billion now."

Latham's transactions strength was also shown in its work establishing a strategic collaboration between Celgene Corp. and Prothena Corp PLC. The firm represented the latter, a clinical stage biotech company working on treatments for neurodegenerative disorders, in the March deal.

Celgene paid \$100 million upfront to start the venture, and then made a \$50 million equity investment in the smaller company, and has the right to license Prothena's drugs and take in more than \$2 billion in fees and milestone payments, along with royalties, Latham said.

"It takes the pressure off a small company having to go out and raise money," Ruck said. "The Prothena guys were motivated by good funding for a drug ... access and a collaboration with Celgene ... and then ultimately a return to our shareholders should the drug work out."

--Editing by Marygrace Murphy.