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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Life Sciences Group Of The Year: Latham

By **Dani Kass**

Law360 (February 12, 2020, 1:37 PM EST) -- Latham & Watkins LLP was rewarded for securing a positive result for a biotech company in a rare securities class action trial and backed the U.S. Food and Drug Administration as it enforced restrictions on compounding drugs, earning the firm a place among Law360's 2019 Life Sciences Groups of the Year.

Some 275 of Latham's more than 2,700 attorneys belong to its life sciences group, which is spread across 24 offices around the world. Brian J. Cuneo, who co-chairs the life sciences and health care industry group, said one of the keys to their success is bringing together attorneys from an array of practice areas.

"When we have a client approach us with a problem, we're not confined by 'Well, this is a capital markets sort of issue.' We're able to leverage knowledge across a bunch of different legal disciplines with that industry overlay," Cuneo said. "It's the sort of depth of expertise that you just don't find at many firms and to be able to come together across disciplines is an incredible benefit to our clients."

Among the firm's biggest successes last year was getting a California federal jury to largely free Puma Biotechnology Inc. from claims in a securities fraud class action. The investors had alleged that Puma misrepresented the results of a clinical trial involving a breast cancer treatment.

John Manthei, who chairs the global health care and life sciences practice, said they're one of the few firms to take a securities class action to a jury, as the risk is usually too high. But in this case, there was no other option.

"This was a literal bet-the-company situation," partner Andrew Clubok said. "The plaintiffs lawyers were seeking a company-destroying amount. There was no ability to settle the case in a way that wouldn't have significantly impacted our client's ability to continue to spend on research and development."

Puma's drug helps patients with breast cancer who have been failed by other treatments, so the company wasn't willing to back down, Clubok said.

In the end, the jury ruled in Puma's favor on three out of four questions, and on the fourth, awarded $4.50 a share in damages, rather than the requested $87.20. Global Chair of the Litigation & Trial Department Michele D. Johnson attributed that win to the firms' knowledge base.

"We have a deep understanding of the science of what our clients are doing, and that really impacts our ability to handle these cases," Johnson said. "Puma is one example of that. We knew the science backwards and forwards and were therefore able to distill it in a way the jury could understand."

Latham had also been representing Endo Pharmaceuticals Inc. and its subsidiary Par Pharmaceutical in their bid to prevent companies from bulk compounding its blood pressure drug vasopressin without going through the drug approval process.

Par had sued the FDA to get vasopressin taken off the list of drugs that can be compounded by so-called 503B outsourcing facilities, which the agency agreed to do in 2018.

When Athenex Inc. sued the FDA hoping to undo that policy decision so it could bulk compound vasopressin, Latham-backed Par jumped in to defend the agency. The FDA was granted summary judgment in August.

"In this matter, we were able to combine core regulatory expertise and also bring to bear significant litigation expertise to be able to achieve the regulatory objectives," Manthei said.

Outside of litigation, Latham represented Daiichi Sankyo Co. as it reached a $6.9 billion development and commercialization deal with AstraZeneca. The agreement announced in April will have the companies working together on a new cancer treatment.

Under the deal, U.K.-based AstraZeneca will pay Japan's Daiichi Sankyo about $1.35 billion upfront, with the rest coming from regulatory- and sales-based milestones.

"To my knowledge, it's the largest clinical stage licensing transaction for an oncology product," said Vice Chair of the Healthcare & Life Sciences Practice Judith A. Hasko.

The firm then represented Swedish Orphan Biovitrum AB, known as Sobi, in a $1.5 billion deal with AstraZeneca. Sobi bought the rights to the respiratory tract infection drug Synagis that AstraZeneca wanted to divest.

"We can work opposite Big Pharma, and in many respects, we do work for Big Pharma. We can kind of be on both sides of that," Cuneo said of those two deals. "We obviously take great care in how we deal with those particular client situations."

Finally, Latham represented Gossamer Bio Inc. as it went public in January with a $317 million initial public offering. Cuneo said they'd been working with the company from the time it formed to the IPO just over a year later.

They were aiming to go public during the government shutdown, which made it impossible to register with the closed U.S. Securities and Exchange Commission. Cuneo said the firm was prepared to invoke an "antiquated provision" that he'd never seen used before, that would allow them to work around the closure.

In the end, the government reopened and they went down the traditional route, but Cuneo said the firm still takes pride in the creative strategy.

--Additional reporting by Adam Lidgett. Editing by Orlando Lorenzo.

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