



THE WILEF TRIBUNE

Morgan Lewis Partner Stars in First Trial Defense Win for Opioid Makers

by WILEF | Nov 9, 2021

Morgan Lewis partner Wendy Feinstein has long represented pharmaceutical companies in high-stakes litigation. A veteran trial lawyer, she has tried cases in federal and state courts and before arbitration panels.



But her representation of Teva Pharmaceuticals at a recent California trial in state court over the opioid epidemic stands apart. The counties of Sara Clara, Los Angeles, and Orange, and the city of Oakland were seeking more than \$50 billion in remedies from Teva and three other pharmaceutical companies, making it one of the largest cases in California history. In addition to Teva, the plaintiffs were pursuing divisions of Johnson & Johnson, Endo Pharmaceuticals, and Allergan PLC, claiming they should be liable for creating “a public nuisance.”

The trial lasted nearly five months, beginning in April and ending in October. It was conducted entirely over Zoom. Feinstein, based in Pittsburgh, where she serves as Morgan Lewis’s office managing partner, nonetheless traveled to Orange County, where the case was filed.

The defense firms included Kirkland & Ellis (for Allergan), Hueston Hennigan (Endo), and O’Melveny & Myers (Johnson & Johnson). Among the esteemed group, Feinstein assumed lead responsibility for cross-examining some of the plaintiffs’ most critical expert and fact witnesses.

Ultimately, her work helped the defendants avoid liability, giving them the industry’s first trial victory in the sprawling national litigation over prescription opioids. In a 42-page ruling issued on November 1, Judge Peter Wilson of Orange County Superior Court rejected the arguments put forward by the plaintiffs.

“The court finds that plaintiffs have failed to prove an actionable public nuisance for which defendants ... are legally liable,” Judge Wilson wrote.

Feinstein singled out her direct-examination work as a key moment in the trial.

“While I always seek to elicit key testimony through cross-examination of the plaintiff’s witnesses, one of the most memorable moments during this trial came during my direct

examination of Dr. Edward Michna, an expert in the treatment of pain, who movingly described his experiences treating patients who regained their dignity and life because of one of our clients' medications," she said. "After discrediting evidence presented by the plaintiff, we wanted to provide testimony, not just lawyer argument, that our clients' FDA approved medications serve an important purpose for people who suffer from debilitating pain."

Feinstein's trial work in the opioid is far from over. She is currently preparing for another trial in January in a case brought by Rhode Island.



The Morgan Lewis team that represented Teva included Adam Teitcher, Wendy Feinstein, and Collie James (who served as co-lead counsel with Wendy).