

## Product Liability Group Of The Year: Greenberg Traurig

By Jonathan Capriel

*Law360 (February 27, 2023, 2:03 PM EST)* -- Greenberg Traurig LLP helped convince the Third Circuit to affirm the dismissal of a lawsuit against Teva Pharmaceuticals over claims related to heart medication, securing its fifth appellate win on similar arguments made against the drug and landing it a spot on Law360's 2022 Product Liability Groups of the Year.

There are more than 150 lawyers in the firm who touch on the product liability area, but the walls defining Greenberg Traurig's practice group are porous. It's more of an ensemble of attorneys with complementary focuses, said Sara K. Thompson, the chair of the firm's pharmaceutical, medical device and health care litigation practice.

While Thompson says that life sciences is her "bread and butter," the group works closely with the mass tort and product liability teams. This helps the firm stand out from others, Thompson said.

"We are interdisciplinary and multidisciplinary in ways I'm not sure a lot of other firms are," she said. "We really integrate all complementary practice areas, and we work seamlessly and interchangeably. If you were to write about us as a musical group, we'd be a triple threat. We write the music, sing the songs and perform the choreography."

Greenberg Traurig's nationwide reach, with more than 35 field offices, including one that opened in Portland, Oregon, last year, is also key because the firm often defends clients in lawsuits over the same product in multiple jurisdictions, Thompson said.

Some of Greenberg Traurig's most notable work last year consisted of defending clients against products that are frequently subject to litigation, such as its Third Circuit win in the *Bennett et al. v. Teva Pharmaceuticals* case, which centers around the heart drug amiodarone.

Since at least 2014, Greenberg Traurig has defended pharmaceutical makers against claims that they failed to adequately warn about the dangers of amiodarone's off-label use. This includes defeating a number of federal and state court lawsuits and squashing an attempt by plaintiffs to consolidate their suits into multidistrict litigation in 2016, Thompson said.

But the plaintiffs' counsel — the same firm that filed many of the amiodarone suits — were willing to try new arguments, Thompson said. While generic manufacturers such as Teva Pharmaceuticals USA Inc.



must maintain the same U.S. Food and Drug Administration-approved labels as the branding manufacturer, the plaintiffs' new legal avenue was claiming the company didn't do enough to ensure the drug guides and warnings were handed out to patients with each prescription.

While it was a "unique" argument, Thompson said, Greenberg Traurig convinced a Delaware district court and later the appeals panel that the patient's state claims were preempted because only the FDA can govern how drugmakers distribute medication direction guides, Thompson said.

Greenberg Traurig's success followed favorable outcomes it secured on nearly identical appeals in the Ninth, Eleventh, Sixth and Fourth circuits and in the California Court of Appeals, Thompson said.

"It's been pretty sweeping in the repudiation of plaintiffs' theories," said Thompson, who early on participated in much of the amiodarone litigation. "It's probably the litigation I'm most passionate about. It's been whack-a-mole with the new plaintiffs' theories, but every time we've been able to get the courts to reject it."

The firm was founded in Miami and has a heavy presence in Florida, which is fitting because its courts have become quite busy with product liability and MDL cases in recent years, said Sabrina R. Gallo, chair of the firm's products liability practice in the state.

Notably, Greenberg Traurig worked as counsel for Taishan Gypsum Co. Ltd. when it faced a sprawling MDL over Chinese manufactured drywall. Though the litigation was largely settled for \$248 million in 2019, the firm has wrestled with a number of lawsuits filed by those who opted out of the settlement.

In one instance, Greenberg Traurig was able to get two federal judges to toss claims brought by 11 Alabama-based property owners. The MDL judge agreed to send the plaintiffs' claims to the Northern District of Alabama, where the firm argued that the claims should be dismissed because the court had no personal jurisdiction over Taishan.

The plaintiffs asked the lawsuit be transferred to the Northern District of Florida, where the courts would have jurisdiction over the drywall maker. But Greenberg Traurig argued that the Florida courts lacked personal jurisdiction to decide on homes located in Alabama. Ultimately, the court agreed the case must be entirely dismissed. This shows the firm's willingness to push the limits of personal jurisdiction dismissal, Gallo said.

"It was a creative argument," Gallo said. "One of the things that sets [Greenberg Traurig] apart is not only knowing the legal issues and arguments but knowing when to make them."

--Editing by Gemma Horowitz.