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Law360's Weekly Verdict: Legal Lions & Lambs

By **Aebra Coe**

Law360 (September 6, 2018, 5:58 PM EDT) -- Litigation boutique Campbell Campbell Edwards & Conroy PC stepped up to take the top legal lions spot this week, winning a favorable ruling for Johnson & Johnson in personal injury litigation over its antipsychotic drug Risperdal, while a trio of law firms representing Apple landed on the lambs list after a judge denied the technology giant's request for a new trial, leaving in place a \$502 million patent verdict against it.

Legal Lions

In a win secured by this week's top legal lion, **Campbell Campbell Edwards & Conroy PC**, Johnson & Johnson and its subsidiary Janssen Pharmaceuticals Inc. on Wednesday **prevailed over claims** in Massachusetts federal court saying their antipsychotic drug Risperdal caused a Bay State man to gain excessive weight in his teenage years. The ruling came as thousands of similar personal injury suits are pending separately in Pennsylvania. J&J and Janssen are represented by **James M. Campbell** and **Kathleen M. Guilfoyle** of **Campbell Campbell Edwards & Conroy PC**.

Morrison & Foerster LLP and **Winston & Strawn LLP** also snagged spots on the lions list this week after a California federal judge on Aug. 31 granted a request they made on behalf of Panasonic and Sanyo **to strike a renewed certification bid** by a consumer class in multidistrict litigation over the alleged price-fixing of lithium-ion batteries. The judge concluded that granting the customers' third attempt would set a "dangerous precedent" and lower the high bar for tampering with MDL case calendars. Panasonic Corp. and Sanyo are represented by **A. Paul Victor**, **Eva W. Cole**, **Jeffrey J. Amato**, **Cristina M. Fernandez** and **Ian L. Papendick** of **Winston & Strawn LLP** and by **Roxann E. Henry** of **Morrison & Foerster LLP**.

Coca-Cola Co. is looking to make a splash in the coffee business, saying Aug. 31 it will acquire U.K.-based chain Costa Ltd. from Whitbread PLC in a \$5.1 billion deal, with **Clifford Chance LLP** and **Skadden Arps Slate Meagher & Flom LLP** guiding the **beverage giant**, and **Slaughter & May** steering the seller.

Five law firms — **Drinker Biddle & Reath LLP**, **Tucker Ellis LLP**, **Eckert Seamans Cherin & Mellott LLC**, **Dechert LLP** and **Wilkinson Walsh & Eskovitz** — notched the latest in a string of victories for Bayer AG and Janssen Pharmaceuticals Inc. this week in litigation over injuries allegedly linked to the anticoagulant medication Xarelto as a **Philadelphia jury rejected claims** that the companies failed to provide adequate warnings about the drug's risks. The defendants are represented by **David Abernathy**, **Chanda Miller**, **Susan Sharko** and **Rodney Hudson** of **Drinker Biddle & Reath LLP**, **Michael Zellers** of **Tucker Ellis LLP**, **Albert Bixler** and **Leslie Hayes** of **Eckert Seamans Cherin & Mellott LLC**, **Robert Heim** and **Judy Leone** of **Dechert LLP**, and **Alexandra Walsh**, **Tamarra Matthews Johnson** and **Rakesh Kilaru** of **Wilkinson**

Walsh & Eskovitz.

Rounding out the week's legal lions is **Munger Tolles & Olson LLP**. The law firm on Aug. 30 **won a court order on behalf** of Walt Disney Co. barring Redbox from reselling digital versions of "Black Panther" and other movies, six months after the same judge refused to grant the Hollywood giant a similar order and criticized it for misusing its copyrights. Disney is represented by **Kelly M. Klaus, Carolyn H Luedtke, Glenn D. Pomerantz, Stephanie Goldfarb Herrera** and **Rose Leda Ehler** of **Munger Tolles & Olson LLP**.

Legal Lambs

Desmarais LLP, Kirkland & Ellis LLP and **Potter Minton PC** ended up on the legal lambs list this week after an Eastern District of Texas judge denied client Apple Inc.'s request for a new trial and **left in place a \$502.6 million verdict** that VirnetX Inc. won earlier this year after a jury found the iPhone maker infringed four patents. Apple is represented by **John Desmarais, Michael Stadnick** and **Ameet Modi** of **Desmarais LLP**; **Robert Appleby, Gregory Arovas, Leslie Schmidt, David Draper, Joseph Loy** and **Jeanne Heffernan** of **Kirkland & Ellis LLP**; and **Michael Jones** of **Potter Minton PC**.

Also on the lambs list this week is **Sullivan & Cromwell LLP**. On Wednesday, a Second Circuit panel **rejected a request** by Goldman Sachs for permission to appeal a lower court's decision to certify a class of female employees who say they were underpaid and denied promotion opportunities. Goldman was represented by **Robert Giuffra Jr.** of **Sullivan & Cromwell LLP**.

In a blow to attorneys at **Foley Hoag LLP** representing the New England Power Generators Association and Genon Energy Inc., Massachusetts' highest court ruled Tuesday that electricity companies operating in the state **are subject to caps** on greenhouse gas emissions, hastening state policy goals on global warming for a second time since they were enacted a decade ago. The New England Power Generators Association and Genon Energy are represented by **Seth D. Jaffe** and **Stephen L. Bartlett** of **Foley Hoag LLP**.

Next up on the list are **Germano Law LLC, Holland & Knight LLP** and **Winston & Strawn LLP**. The Third Circuit on Tuesday **revived a False Claims Act suit** against PharMerica Corp. after concluding that information a whistleblower used to build a False Claims Act suit against the company featured key nonpublic information, meaning it can meet the act's public disclosure bar. PharMerica Corp. is represented by **Judith H. Germano** of **Germano Law LLC, Michael R. Manthei, David M. Glynn, Robert M. Shaw** and **Jeremy M. Sternberg** of **Holland & Knight LLP** and **Peter J. Kocoras** of **Winston & Strawn LLP**.

Rounding out this week's legal lambs list are **Colvin Saenz Rodriguez & Kennamer LLP, Thompson Coe Cousins & Irons LLP**, and **Victor Rodriguez Law Firm**. A federal jury in Texas **awarded \$4.8 million in damages** to a man whose left arm was amputated when his 1999 Ford Explorer rolled over, determining after hearing six days of testimony and deliberating for about four hours that a design defect — the type of window glass used — led to his injuries. Ford Motor Co. is represented by **Norton A. Colvin III** and **Jaime Arturo Saenz** of **Colvin Saenz Rodriguez & Kennamer LLP, Michael Wayne Eady** of **Thompson Coe Cousins & Irons LLP** and **Victor Rodriguez Jr.** of **Victor Rodriguez Law Firm**.

--Additional reporting by Alison Noon, Cara Bayles, Matthew Guarnaccia, Matt Fair, Bill Donahue, Matthew Bultman, Jack Newsham, Dani Kass and Michelle Casady.

--Editing by Bruce Goldman.

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McCall, Nanette

Subject: FW: 3rd Circ. Says 'Buyer's Remorse' Can't Revive Toxic Talc Suit

From: New Jersey Law360 <news@law360.com>

Date: September 7, 2018 at 4:35:04 AM EDT

To: <dkott@mccarter.com>

Subject: 3rd Circ. Says 'Buyer's Remorse' Can't Revive Toxic Talc Suit



Friday, September 7, 2018

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TOP NEWS

3rd Circ. Says 'Buyer's Remorse' Can't Revive Toxic Talc Suit

The Third Circuit on Thursday affirmed a New Jersey federal court decision dismissing a Johnson & Johnson consumer's proposed class action over the alleged health hazard associated with the company's talc-based baby powder, finding the consumer's "buyer's remorse" is not an actual injury. [Read full article](#) »

NJ City Says Developer Is Using Kushner To Push Project Row

Jersey City asked a New Jersey federal judge to end a lawsuit by a real estate development firm owned by the family of White House senior adviser Jared Kushner, saying the firm is wrongfully attempting to blame its own contractual failures for a redevelopment project on the mayor's "political animus" toward Kushner's father-in-law, President Donald Trump. [Read full article](#) »

Hospital Can't Duck Med Mal Suit Over Missing Affidavit

A couple did not need to submit an expert affidavit to pursue a medical malpractice action alleging that nurses at a New Jersey hospital did not take any action when a tube that was inserted into a woman became dislodged, a state appeals court ruled on Thursday in a published opinion reviving the lawsuit. [Read full article](#) »

Ex-NJ Employee Can't Get Benefits For Injury On Way To Work

A New Jersey state appeals court said Thursday that a retired state Department of Education employee did not qualify for a larger disability pension because her injury occurred on her way to work when she sprained her back while removing her car from a snow bank. [Read full article](#) »

ENFORCEMENT

Ex-Celator Employee Gets Prison For Insider Trading Scheme

An ex-Celator Pharmaceuticals Inc. employee was slapped with a combined yearlong sentence of prison and home confinement Thursday in New Jersey federal court for his role in an insider trading scheme involving confidential information about the company's positive test results for a cancer drug and its



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- Edwards Wildman
- Fish & Richardson
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- Gray Cary
- Holland & Knight
- Jung & Sisco

impending acquisition by Jazz Pharmaceuticals PLC. [Read full article »](#)

Defense Contractor's Owner Indicted For \$7M Fraud Scheme

The Turkish owner of a New Jersey defense contracting business was indicted Wednesday for allegedly duping the U.S. Department of Defense into awarding his company hundreds of contracts for military parts and defense hardware items to the tune of roughly \$7 million. [Read full article »](#)

LITIGATION

State AGs Join Fight Over DOI Flip On Migratory Bird Kills

Democratic attorneys general from eight states sued the U.S. Department of the Interior in New York federal court seeking to undo its decision not to criminally prosecute individuals and companies for accidentally killing or injuring migratory birds, joining environmental groups that have already challenged the policy about-face. [Read full article »](#)

THIRD CIRCUIT

3rd Circ. Partially Grants NJ Permits In Pipeline Fight

A Third Circuit panel on Wednesday upheld federal permits for Transco's \$116 million pipeline upgrade in New Jersey, but said the state was wrong to think federal law preempted its power to hold adjudicatory hearings on the state's own permits, which must now be held. [Read full article »](#)

Pitt Prof's Pay Wasn't Protected Property, 3rd Circ. Told

The University of Pittsburgh urged the Third Circuit on Thursday to vacate a lower court's finding that it unlawfully denied a tenured professor the opportunity to defend himself before an impending salary reduction, saying he had no constitutionally protected property interest in a set salary that would have triggered due process rights. [Read full article »](#)

3rd Circ. Declines To Revive Tribune Race Bias Suit

A former Tribune Media Co. employee's decade-old race bias suit hit a fatal hurdle Wednesday as the Third Circuit declined to revive the case, finding that the employee didn't show enough evidence that he lost his job because of racial discrimination and that he had ample opportunity to do so. [Read full article »](#)

Debt Buyer Tells 3rd Circ. It Has No Liability Under FDCPA

A Third Circuit panel on Thursday pressed a debt-buying business to explain why it wouldn't be vicariously liable for the actions of its contracted debt collector, and thus bound by federal consumer protection law, as it considered whether to allow a suit accusing the business of violating that law to proceed. [Read full article »](#)

LEGAL INDUSTRY

New Emails Reveal Kavanaugh As Opinionated Bush Lawyer

In previously confidential records released Thursday, D.C. Circuit Judge Brett Kavanaugh called an affirmative action program a "naked racial set-aside," discussed whether *Roe v. Wade* is "settled law" and corresponded with a Republican Hill staffer later accused of misappropriating Democratic material while he was a White House lawyer in the early 2000s. [Read full article »](#)

Kavanaugh Defends Bush Record, Words On Executive Power

D.C. Circuit Judge Brett Kavanaugh found himself defending his statements on executive power and involvement in controversial Bush administration judicial

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Kraemer Manes
Law Offices of Paul Leodori PC
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NRG Energy Inc.
National Collegiate Athletic Association
Natural Resources Defense Council

nominees and policies Thursday, as he closed out his testimony for his U.S. Supreme Court nomination hearing. [Read full article »](#)

White Men Have Leg Up In Legal Industry, Attys Say

A survey of almost 3,000 in-house and law firm attorneys has found that the legal industry suffers from an "endemic" gender and racial bias that favors white men in a number of different ways, including when it comes to hiring, promotions, assignments and compensation. [Read full article »](#)

Series

NYC Brick & Mortar: Trend Breakers

While various law firms in New York have over the past two years taken less space per lawyer and set up shop with smaller partner and associate offices, some firms have bucked those trends. This is the final article in a four-part series that looks at how law firms in New York are addressing the question of brick-and-mortar space. [Read full article »](#)

Senate Confirms 8 Trump District Court Nominees

The Senate voted to confirm eight nominees to federal district courts Thursday afternoon, pushing the number of district judges confirmed under President Donald Trump to 41. [Read full article »](#)

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Ex-Raiders, Buccaneers Atty Named XFL General Counsel

The relaunching XFL football league announced Thursday it has signed a former counsel for a pair of NFL teams as its general counsel. [Read full article »](#)

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