

THE **RECORDER**

## How Proskauer's Bart Williams Helped Land a Defense Verdict in Gilead Pay-for-Delay Antitrust Case

By **Amanda Bronstad**

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In the world of high-stakes trials, Bart Williams is the relief pitcher to have in the bullpen. Williams, a partner at Proskauer Rose in Los Angeles, jumped into a \$3.6 billion antitrust trial against the makers of two HIV drugs. After lead attorney Kirkland & Ellis partner James Hurst retired three months prior to trial, Williams joined the defense team for Gilead Sciences Inc., accused of conspiring with generic manufacturer Teva Pharmaceutical Industries Ltd. to delay the launch of two HIV medications.

On June 30, after more than five weeks of trial, a federal jury found that Gilead didn't have market power—the first such antitrust verdict to side with the defense on that issue—and that no “pay for delay” deal existed between the two companies based on their 2014 patent settlement.

“Here, we proved that Gilead had significant market share but, by the time the settlement agreement occurred, Gilead had lost more than 90% of its market share with respect to these drugs,” Williams said. “The basic story is that the entry of the generic companies into the market for the two drugs was early entry, and not delayed entry—meaning, the patents were not set

to expire for years at the time the settlement agreement between Gilead and Teva was reached.”

Williams, who joined the trial team with Proskauer partner Susan Gutierrez, also in Los

Angeles, handled jury selection, opening statement, closing arguments and cross-examination of two important plaintiffs' witnesses: a patent expert and an economist. Those cross-examinations, and the direct examination of Gilead's former general counsel, Brett Pletcher, which Williams also handled, were turning points in the trial, he said. So was the direct examination of the defense's market expert, handled by another member of the Gilead legal team, Kirkland & Ellis partner Devora Allon, in New York, which “formed the basis of the jury's finding that we did not have sufficient market share,” he said.

“After each of those segments,” Williams said, “we really felt like they had had an impact on the jury.”



**Bart Williams of Proskauer Rose.**

Courtesy photo

Christopher Holding, a Boston partner at Goodwin Procter, who represented Teva, the other defendant, said Williams was an instrumental player on the team. He was “open to conversation, helpful, and valued everyone’s input,” he said.

“Bart has an impressive ability to comprehend and synthesize large amount of information quickly. Equally impressive is his ability to distill numerous complicated matters into easily digestible themes and bite-sizes pieces for the jury,” Holding wrote in an email. “Time and again, I noted that Bart has just the right touch with witnesses and the jury. He maintains control (and his credibility) without being a yeller. He can make an incredibly biting point with an even demeanor, which makes it all the more powerful.”

The plaintiffs were a set of health funds and insurance companies, represented by three separate legal teams, which sought treble damages totaling \$10.8 billion. Thomas Sobol, a Boston partner at Hagens Berman Sobol Shapiro, who was lead plaintiffs’ counsel for the end-payor purchasers, called Williams a “very capable lawyer and a straight shooter.”

In addition, there were two separate plaintiffs: United Healthcare, represented by Hamish Hume, of Boies Schiller Flexner in Washington, D.C.; and Humana, Centene Corp., Blue Cross and Blue Shield of Florida and Blue Cross and Blue Shield of Kansas City, all represented by Jeff Poston, of Washington, D.C.’s Crowell & Moring.

Williams is familiar with Gilead: He represents the biotech firm in thousands of products

liability cases in California alleging its HIV drugs caused kidney and bone injuries.

“I’ve been doing a lot of other work with them on product liability cases relating to the same drugs, so I’m familiar with the drugs and their histories, so that’s probably why I came to mind,” he said.

Williams, a former federal prosecutor, knows a thing or two about high stakes. In 2021, after courts reopened amid the COVID-19 pandemic, Williams won one of the first courtroom victories for Bayer’s Monsanto in a trial over Roundup pesticide. Originally in person, the trial, in California’s San Bernardino County Superior Court, ended up on Zoom after a COVID-19 outbreak.

Before that, Williams turned the tide on the talc litigation against Johnson & Johnson. In 2017, Williams and Manuel Cachán, now at Skadden, Arps, Slate, Meagher & Flom in Los Angeles, gave Johnson & Johnson its first defense verdict in a trial linking its baby powder to ovarian cancer—and in the same St. Louis courthouse where other juries previously had awarded plaintiff verdicts of \$55 million, \$70 million and \$72 million.

“The stakes in product liability cases are very high because the plaintiffs always, even though they represent individuals or small groups of individuals, ask for a ton of money,” Williams said. “They ask sometimes for scores of millions, hundreds of millions, sometimes billions. In antitrust cases, because these are such blockbuster drugs, the numbers are even higher, so the financial stakes are even higher, which is why many of the so-called ‘pay-for-delay’ cases settle.”

