



2018 Rising Star

Rebecca Fitzpatrick

Rebecca Fitzpatrick of Kirkland & Ellis LLP spearheaded a new approach for AbbVie Inc. in the third bellwether trial over the company's testosterone gel product and secured the first complete defense verdict for the company in the massive multidistrict litigation, earning her a spot as one of five attorneys under age 40 honored as *Law360's* trials Rising Stars.

Her proudest moment:

Fitzpatrick was one of the leaders of the Kirkland team hired by AbbVie last year as it aimed to turn around its fortunes in the sprawling Testosterone Replacement Therapy Products Liability Litigation, which includes more than 6,000 pending cases against several pharmaceutical companies and alleges they failed to warn about the dangers of the products.

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AbbVie had been hit with verdicts of \$150 million and \$140 million in the first two bellwether trials over its product AndroGel, and so switched firms to hire Kirkland only three months before the third trial, according to the firm. In January, an Illinois federal jury found completely for AbbVie in that third bellwether, and getting such a positive result in such a demanding circumstance was a career highlight, Fitzpatrick said.

"We had worked so hard for that and it was just a really great result for the client, for the litigation and for me personally, so that one really stands out," she said.

The challenge behind her biggest trials:

Fitzpatrick specializes in doing the hard digging into the science that will make or break a trial, and in the AbbVie bellwether trial,

another bellwether trial for the company, and her defense of Union Carbide in an asbestos liability trial, she tackled the essential role of getting the science to the jury by examining key expert witnesses.

The challenge in digging deep into the epidemiology, toxicology and other scientific areas at hand, Fitzpatrick said, is to connect the details to a bigger picture.

"It's easy to get lost in the details, so the challenge in these trials was to pull back ... and weave the details and the science into the broader case so that the science represents part of the story, but it remains part of a coherent broader defense strategy," she said.

What motivates her:

It was less a studied hypothesis than general experimentation that

led Fitzpatrick to her current life science and trial practice specialties. She said the very first case she worked on at Kirkland, straight out of law school, happened to be defending a company against claims that they had contaminated the groundwater around a local chemical plant, causing people to develop brain cancer.

This case gave Fitzpatrick a headfirst introduction into defending science-intensive claims at trial, and she said it was serendipity that she found an area of the law she loved.

“I was reading the scientific articles for the first time, I was keeping a glossary of all these terms and I just found that I absolutely loved it and it made the hours fly by,” she said.

Fitzpatrick said that what drove her then and now, however, is more than just the intellectual satisfaction of figuring out the science.

“[It was] to dig into it and pull it together into a story, to figure out what plaintiff’s experts had done deeply, scientifically wrong,” she said. “So it’s not just the intellectual challenge because I’m a competitive person as well. I like to win.”

The first chair on that trial gave Fitzpatrick, still “a brand-new attorney,” a chance to work up an outline for the cross-examination of two of the other side’s key epidemiology experts,

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and exposing the errors in their analyses got both experts’ opinions excluded by the court.

“It was fantastic. After that I was hooked on doing science, science-intensive cases, and then on taking them to trial, getting up in court and sort of facing the ultimate test of what you’ve been doing this whole time — will this actually be compelling to a jury,” she said.

On where the practice area is headed:

As a trial attorney who traffics in detailed scientific facts, Fitzpatrick knows better than most how a jury handles being plied with ever-increasing information, and said that she sees trial practice headed to a more efficient pace, one that doesn’t forget about the impact on a jury when a trial goes on for “months and months.”

“You also need to think about their attention span, you need to have a real empathy for the jury. Judges are

requiring this, and I think is something attorneys are realizing on their own,” she said. “So it’s becoming more and more important to tell a compelling story that is boiled down to the core. To have respect for the jury and what they actually need to hear, and what are the important facts and doing it as efficiently as possible.”

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