



2019 MVP

Jim Hurst

Jim Hurst of Kirkland & Ellis LLP triumphed in two major jury trials within an exceptionally tight window last year, securing a defense verdict for Alere Inc. in a patent infringement suit just weeks after helping a Bristol-Myers Squibb unit fend off a potential billion-dollar trade secrets claim, landing him among *Law360*'s 2019 Trials MVPs.

His biggest accomplishment:

Hurst highlighted to *Law360* the challenge, and the reward, of being the lead attorney on two complex trials in a row. In the first one he recalled, a Delaware jury on Nov. 7, 2018, found for Hurst's client, Bristol-Myers Squibb unit Flexus, and rejected pharma rival Incyte Corp.'s bid for over \$1 billion in damages in a trade secrets case.

Three weeks later, Hurst was back in front of a jury, this time in federal court in San Diego, representing Abbott Laboratories unit Alere as it defended allegations that its popular drug-screening test product, the iCup A.D., infringed Rembrandt Diagnostics LP's patent. In that matter, Hurst secured another defense verdict, on Nov. 30, 2018.

"It was one of the more difficult things I've faced as a trial lawyer," Hurst said. "So it was an extraordinarily difficult turnaround time, to get a verdict in one case, take really one day off, and then start preparing for another big trial."

How he stays sharp at trial:

As for how he overcame the back-to-back challenge, Hurst noted first that it was "an extraordinarily long period with very little sleep," but also highlighted the support he got from colleagues.

"The reality is the trial teams at Kirkland are just about as good as it gets," Hurst said. "In both cases I had number twos and number threes that could have been first chairs themselves."

Hurst added that lack of sleep isn't much of an obstacle when the stakes are high at a trial.

"The adrenaline starts pumping, and when you're facing the prospect of a jury trial that could immediately at the end ... result in either great things

"...When you're facing the prospect of a jury trial that could result in either great things or extraordinarily bad things, it tends to sharpen the focus and the mind."

or extraordinarily bad things, it tends to sharpen the focus and the mind,” he said.

On seeing a trial result affirmed on appeal:

In addition to his trial work, Hurst also participated on a team that won a complete appellate court victory for Abbott, ending a long-running patent infringement suit brought by Enzo Life Sciences.

Hurst credited his Kirkland colleague who gave the oral argument in that case, John O’Quinn, explaining “it really is a team approach” in shepherding a case from trial to appeal.

Hurst also said his appellate work goes hand-in-hand with his work at trial.

“I’ve had the good fortune of arguing dozens and dozens of appeals, including one in the Supreme Court, so it gives you the perspective at trial to think of what’s going to happen a year from now in front of the appellate court,” he said.

Hurst said that, in the Flexus trial, the parties reached a settlement after trial to end the case without an appeal, and noted that this was “a

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reflection of the fact that we tried a case that could not only win at trial, but be highly confident that we were going to win on appeal too.”

What motivates him:

Hurst said the team approach that helped achieve the Abbott appeal win is a common theme behind all his successes.

“You get these MVP accolades and in some ways it’s a little embarrassing because everybody on every one of my teams knows it’s a team approach, everybody contributes, everybody’s standing up in court,” he said.

Hurst said that, as his career has progressed, he’s started to get more satisfaction out of seeing the junior attorneys on his teams be the ones accomplishing great things in court.

“When you’re younger, you’re learning and you’re starting to hone your skills, and you want to

be the person up there doing the most important cross, or the most important direct,” Hurst said. “But I think as you get more senior you get an awful lot of satisfaction out of seeing younger attorneys get up there and just kick ass.”

His advice for younger attorneys:

As for his advice for those younger attorneys hoping to be the ones leading the team themselves one day, Hurst insisted they can’t just sit back and wait for the opportunity to build their in-court experience.

“The reality is, to get yourself in the position to be able to start first chairing trials, you have to look through every single opportunity to get yourself up on your feet in court, including pro bono trials, including seeking out opportunities to work with attorneys who go to trial a lot,” Hurst said. “Just to give yourself a chance at getting up on your feet.”

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