



2020 RISING STAR

Diana Watral

Kirkland & Ellis LLP partner Diana Watral has helped lead clients to success in bet-the-company trials in recent years, particularly in the health and life sciences space, making her one of Law360's trials Rising Stars.

The biggest trial she worked on lately:

Watral second-chaired a trial in which Kirkland defended Bristol Myers Squibb unit Flexus Biosciences Inc. in a trade secrets case by drugmaker Incyte Corp. Incyte claimed that a senior scientist jumped ship and took highly valuable trade secrets regarding a cancer treatment. Those secrets helped entice Bristol Myers to buy Flexus for \$1.25 billion, Incyte said.

Before trial, Watral and her team got six trade secrets claims trimmed. In November 2018, a jury agreed with Incyte that secrets were stolen, but it didn't award damages, saying Incyte failed to show Bristol Myers was unjustly enriched.

"I conducted numerous cross and direct examinations, argued multiple motions," Watral said, including direct-examining Flexus' CEO, an important witness.

"My clients are hiring me and they're hiring Kirkland because they have...millions of dollars or billions of dollars on the line. And I take that seriously."

"The plaintiffs had been calling him a liar and a cheat, both in the press and in open court. And after years of litigation, it was finally his chance to look the jury in the eye and tell his side of the story," Watral said.

Other notable cases she's worked on:

In April 2016, Watral helped convince a jury to clear Abbott Laboratories, 10-1, of a whistleblower executive's accusations it improperly marketed bile duct stents for off-label uses.

The jury found the device maker had not violated the

False Claims Act by making false statements or submitting false records to the Centers for Medicare & Medicaid Services.

Former Abbott sales director Kevin Colquitt's lawyers told jurors that the company knowingly marketed stents intended for bile ducts for vascular procedures instead. He said that Abbott's marketing caused doctors to submit more than 35,000 false claims for reimbursement in 36 states and the District of Columbia, costing CMS \$219.4 million between 2004 and 2006.

Abbott did not deny that the stents

were used in vein procedures, but argued that the practice was widespread across the industry.

Watral said the trial represented an exciting moment in her career.

“It’s my proudest moment because it’s the first trial where I was up on my feet every single day. I argued jury instructions, I conducted examinations of multiple witnesses,” she said.

What motivates her:

Watral is motivated by the drive to protect her clients at all costs, she said.

“My clients are hiring me and they’re hiring Kirkland because

they have significant exposure or significant matters, hundreds of millions of dollars or billions of dollars on the line. And I take that seriously,” Watral said.

That’s what drives her to approach trial work by looking for “the most creative argument or creative solution,” she said.

How she thinks her practice will change over the next 10 years:

Watral sees a trend of judges starting to feel that trials include too much ponderous repetition of information. She foresees that the coronavirus pandemic will

bolster an emerging trend of paring trials down to the essentials.

“I would say that courts are increasingly putting time limits on trials, and I expect that that is going to continue to happen even more,” Watral said. “Especially in the post-COVID world, I expect that judges are going to be even more protective of jurors’ time.”

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