

Donna Welch & Jennifer Levy



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Jennifer Levy

Donna Welch and Jennifer Levy, partners at Kirkland & Ellis LLP, represented opioid manufacturer Allergan PLC in the first opioid trial that culminated in a win for drugmakers in November in California state court, securing them a place on Law360's 2022 Product Liability MVPs.

Their biggest accomplishment in the past year:

Welch and Levy said the decision handed down by Orange County Superior Court Judge Peter J. Wilson after a monthslong trial, finding that California communities failed to show that major drugmakers were liable for the opioid epidemic, was by far their biggest accomplishment, especially considering the trial took place where the case law was not in favor of the defendants.

The duo said the result was due to a large team effort coordinated by talented lawyers from a number of law firms.

"We prepared for months, and we worked in a really close-knit joint defense group to make sure that we put on a very targeted case on causation so that the judge would understand that the claims that the plaintiffs were making were not backed up by the actual facts of the case," Levy said. "I think the key to the win was working together between

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joint defense groups and doing very targeted, very sharp cross-examination of the plaintiffs' experts."

In his ruling, Judge Wilson found that there was no evidence that misleading marketing about the risks and benefits of opioids actually led to improper prescriptions and created a public nuisance.

Making sure that the judge was convinced by their arguments that the plaintiffs — the city of Oakland and Orange, Los Angeles and Santa Clara counties — could not meet the standard for causation was critical, Welch said.

"Had we lost focus," Welch said, "I think the outcome could have been quite different."

Their biggest challenge of the past year:

Once COVID-19 restrictions were lifted, trial dates started piling up, especially in the opioid cases, Welch and Levy said.

"Over an 18-month period, we had three lengthy trials in the opioid cases, back to back," Welch said.

Going from trial to trial for the better part of 13 months over that time was rewarding, but hard, Levy said.

"Hard as a matter of stamina on the individual lawyers and hard on our families as well."

Their proudest moment in the past year:

While obtaining a win for their client in the California opioid trial was

their proudest moment of the year, there were also occasions during that trial that were gratifying as experienced attorneys watching more junior counsel stretch their wings, the pair said.

"These are lawyers who worked on our team for the better part of five-plus years," Welch said. "So they were steeped in the law and in the facts, and as a result, we have the ability to give opportunities and some of the biggest bet-the-company litigation out there to young lawyers, and it was just outstanding to see them get up and rise to the challenge."

What motivates them:

Their "unique" partnership drives them both to produce their best work, Welch and Levy said. While they had known each other "forever" as partners within the firm, they started working together on the opioid litigation in 2017.

"Every day that I wake up, I look forward to working with Donna. I look forward to the hard challenges. I look forward to the successes," Levy said.

"I look forward to mentoring young attorneys, and doing it with Donna makes me a better lawyer every single day."

Their advice for younger attorneys:

While it can be daunting to be one of many associates on a large litigation, Welch advised that young attorneys should dig in on the facts and law and master those issues. That gives attorneys like herself and Levy the ability and confidence to give them opportunities to appear in court, she said.

"The other thing I would add is not to try to emulate the style and the tone of other lawyers that you work with or for your firm, but really be yourself as a lawyer," Levy added. "I think fact-finders respond to attorneys who are speaking in their own voices."

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