

## WINNING LITIGATORS: HIGH STAKES, SIGNIFICANT VICTORIES

### A SPECIAL REPORT

The lawyers in our 2016 special report all have something in common—they score big wins in court. But how do these battle-tested litigators make their clients happy? As they detail, it's as much about the process as it is the outcome. They have learned that they must trust their own styles of trial practice, be credible, know the documents, and connect with and respect the jury. In cases ranging from products liability to patent law, they've mastered their craft. These are the stories of our winning litigators.

## GIBSON, DUNN & CRUTCHER

**JEFFREY THOMAS**

To watch the five-week jury trial in Hewlett Packard Enterprise Co.'s breach of contract suit against software giant Oracle Corp., you might have thought the \$3 billion fight was about technology.

Both sides spent hours talking about Hewlett Packard's Itanium server business—which sold to government agencies and corporations for “mission critical” data jobs—and fighting over whether it died because Oracle stopped supporting it.

But all the while, one of Hewlett Packard's lead lawyers, Jeffrey Thomas of Gibson, Dunn & Crutcher's Irvine, California, office, was weaving an even simpler story about fairness—one that he drilled home at closing arguments.

The bottom line, he said, was that Oracle promised to do something and didn't deliver.

The tactic worked: the jury last July handed Hewlett Packard a complete win and all the damages it had sought.



“When we talked to jurors after the case was done, they told us that they thought what Oracle had done was fundamentally unfair,” Thomas said. “For most people, they think that if you sign a contract, you should do what you agreed to do.”

The Hewlett Packard case had been tilting in Thomas' favor after the company won the first phase of the litigation in 2012.

But over the past year he's also had success in turning the tables in other litigation.

He represents drugmaker Allergan Inc. in a patent suit brought by Ferring Pharmaceuticals Inc. over an incontinence drug.

## TRIAL TIPS

■ “Have to have a thematic approach. These aren't legal issues, these are themes that you think are going to resonate with a jury.”

■ “Credibility is the most important thing. The jury has to come to believe and trust me and my witnesses. I would much rather admit a bad fact and just tell the jury right up front than dance around it or stretch the truth.”

■ “Admit where your client has made mistakes, and pre-empt the other side's most powerful arguments.”

—JEFFREY THOMAS

Thomas countersued, and now, the only claims left in the case are Allergan's. “Basically, we went from being defendant to plaintiff,” he said.

—BEN HANCOCK