

# LITIGATION DEPARTMENTS OF THE YEAR

IN-HOUSE IMPACT AWARDS

GAME CHANGERS

GIANT SLAYERS

GROUND BREAKERS

WEEK OF APRIL 18, 2016

DAILY AT WWW.THERECORDER.COM

## WINNER: SECURITIES



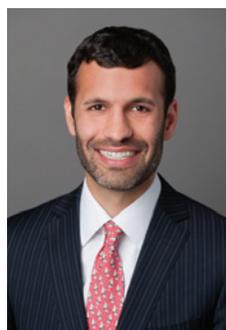
Thad Davis



Jonathan Dickey



Dean Kitchens



Brian Lutz



Meryl Young

## Gibson, Dunn & Crutcher LLP

To defend pharmaceutical company Depomed Inc. from a hostile takeover in 2015, a team of lawyers from Gibson, Dunn & Crutcher decided to go on offense.

Horizon Pharma Plc was after Depomed, which had recently acquired the lucrative painkiller Nucynta from Janssen Pharmaceuticals Inc. Depomed had outbid Horizon in the contest for Nucynta, a fact that a Gibson Dunn team led by Brian Lutz and Paul Collins would use to its advantage.

Bidders for Nucynta, including Horizon, had to sign confidentiality agreements with Janssen to gain access to information about the drug. The Gibson Dunn team argued that Horizon was improperly relying on information it gleaned during that confidential process to make a play for Depomed. On Nov. 19, 2015, Santa Clara County Superior Court Judge Peter Kirwan agreed and granted Depomed's request for a preliminary injunction.

Shortly after the bench ruling, as the attorneys from Gibson Dunn and Depomed were celebrating, Horizon announced it was dropping its \$3 billion takeover bid.

"We didn't stay on defense," Lutz said. "We worked with the facts presented to us to develop an aggressive strategy that ultimately saved the company."

The entire takeover episode only lasted about six months, the first three of which revolved around generally cordial talks between Horizon and Depomed. But when Horizon went hostile in August, the move launched an intense three months of litigation.

"These cases are really fun for litigators like me," Lutz said. "It's a life or death matter for a company and the work is really, really rewarding. You want to be the lawyers that companies hire in their most trying time."

Less than a week after the Depomed ruling, a different Gibson Dunn team led by Jonathan Dickey and Alex Mircheff secured another

headline-grabbing win for a client. U.S. District Judge Dale Fischer of the Central District of California ruled that the plaintiffs in a securities fraud case had failed to prove that nutritional products company Herbalife Ltd. and its officers had deceived shareholders.

Critics have long alleged that Herbalife is a pyramid scheme that relies on product sellers recruiting other sellers to survive. Chief among those critics is hedge fund Pershing Square Capital Management, which bet \$1 billion that the company would flounder.

Pershing Square was not involved in the litigation, but Herbalife and the Gibson Dunn team had to fight back against those very public allegations and explain why the company's business model was legitimate and properly disclosed to investors. Gibson Dunn's successful arguments led the judge to dismiss several theories of losses and to strike three expert reports that were part of plaintiffs' pleadings.

— Cheryl Miller

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