

# Plaintiff-Side Commercial Litigation

While corporations and institutions are often the targets of litigation, there are occasions when they must initiate and pursue affirmative claims to protect their commercial interests or obtain redress. Willenken is uniquely qualified to represent corporate and institutional clients to prosecute plaintiff-side commercial litigation on their behalf. Our deep trial experience not only presents a credible threat to our opponents, but it also enables us to execute aggressive case strategies effectively and efficiently. Moreover, having defended companies in high-stakes and sophisticated commercial disputes for decades, we are well-versed in the defendants' playbook and thus can anticipate their moves.

Plaintiff-side commercial litigation is an under-served practice area. Business enterprises are accustomed to being sued, and they likely have an established roster of outside defense firms to choose from for their representation. However, when a corporate client becomes embroiled in a commercial dispute and must initiate litigation to safeguard its rights or obtain affirmative relief, the situation requires skilled outside counsel who can credibly and effectively marshal an assertive litigation campaign. At Willenken, we leverage our trial experience and strategic acumen to forcefully prosecute affirmative claims for companies. Our tactical agility and thematic case-framing abilities are well-suited for us to press the fight and maximize our clients' chances to obtain redress and relief in matters critical to their business. We relish the opportunity to go on offense for corporate clients and vindicate their rights.

Representative matters:

- **Abbvie Endocrine, Inc. v. Takeda Pharmaceutical Company.** For AbbVie Endocrine, Inc., Willenken brought a high-stakes breach of contract case in Delaware Chancery Court against Takeda Pharmaceutical company, accusing Takeda of failing to supply AbbVie's requirements for Lupron, the gold standard for the treatment of advanced prostate cancer. Willenken's 100% diverse

## Team

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trial team secured significant victories in the phase one (liability) and phase two (damages) trials of this closely watched case. The Delaware Chancery Court found Takeda liable for breaching the Lupron supply agreement and awarded AbbVie damages in the principal sum of \$448 million. Takeda ultimately consented to pay a final judgment that, including pre- and post-judgment interest, exceeds \$490 million.

- **All Plastic Inc. v. SamDan LLC et al.** For All Plastic, Inc., a leading manufacturer of containers used in the cannabis industry, Willenken brought a patent infringement lawsuit in the District Court of Colorado. Based on the arguments presented during the Markman hearing and the underlying briefing, the court adopted substantially all of Willenken's proposed constructions for seven contested terms of eight patent claims, which placed our client in an extremely advantageous position for a successful settlement, just days before trial.
- **Takeya USA Corporation v. Former Senior Executive.** For Takeya USA, a manufacturer of popular stainless steel water bottles, Willenken prosecuted a former senior executive and his new start-up. Takeya alleged the defendant breached fiduciary duties, misappropriated trade secrets, violated confidentiality obligations, and interfered with Takeya's economic relationships when the defendant formed a competing company on the side using Takeya's stolen information, and sought to undercut our client in the marketplace. Our battle-ready team got to the proverbial eve of trial before obtaining a hard-fought settlement and stipulated injunction to protect the trade secrets of our client.
- **Global Biopharmaceutical Company v. Large Health Benefit Manager.** For one of the world's largest biopharmaceutical companies Willenken brought a complex breach of contract action, seeking claims in excess of \$52 million related to the defendant's formulary management for some of the largest sponsored health plans in the country. The breaches at issue were directly relevant to ongoing tensions and business practices that impacted a multibillion-dollar commercial relationship between two of the largest players in the pharmaceutical industry. Our team deftly negotiated and reached a favorable and confidential settlement for our client.
- **Southern California Gas Company v. Syntellect.** Brought a contractual indemnity claim on behalf of Southern California Gas Company against technology vendor, Syntellect, arising from the utility's payment in settlement of patent infringement claims concerning call-center and telecommunication technology provided by vendor. We initially prevailed on a partial summary judgment motion on the issue of liability. On the eve of the damages phase trial, the vendor stipulated to a judgment but preserved appellate rights. The district court's rulings were ultimately affirmed twice—once on liability and then on damages—by the Ninth Circuit Court of Appeal, resulting in Willenken winning a judgment of \$9.6 million for full indemnity which fully



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compensated the Gas Company for its damages.

- *Leading Gas Utility v. World's Largest PVC Pipe Manufacturer.* Prosecuted a breach of contract and fraud case against the world's largest PVC pipe manufacturer on behalf of a leading gas utility for defects in underground gas pipes supplied by the manufacturer. By conducting strategic discovery, Willenken unearthed "smoking gun" internal documents in which the manufacturer admitted that quality control deficiencies plagued its production processes. After defeating the manufacturer's last-ditch Anti-SLAPP motion, Willenken obtained a substantial, 7-figure settlement on the utility's behalf which accounted for nearly all of the client's compensatory and consequential damages.
- *National Retailer v. Gaming Company.* On behalf of a national retail chain, Willenken pursued breach of contract claims against one of the largest gaming companies in Nevada for failure to pay licensing fees. One the eve of the court's ruling on a dispositive motion for summary adjudication on liability that Willenken had filed, the gaming company agreed to settle the matter on highly favorable terms for the firm's client.



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