

Saiber & WSGR Prevail in Antitrust Suit against Mylan Pharms

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Saiber attorneys Arnold B. Calmann and Jakob Halpern and their co-counsel Wilson Sonsini Goodrich & Rosati, were successful in defeating a summary judgment motion filed against their client, Mylan Pharmaceuticals Inc., by defendant Celgene Corporation in a massive antitrust action pending in the United States District Court for the District of New Jersey.

Mylan's 2014 complaint alleged that Celgene had engaged in pretextual conduct designed to foreclose Mylan's entry into a multi-million dollar generic drug market relating to thalidomide and lenalidomide in violation of federal and state antitrust law and state unfair competition law. Specifically, Mylan argued that Celgene had engaged in illegal anticompetitive conduct in attempting to prevent Mylan from obtaining samples of its branded Thalomid® and Revlimid® drugs, which was a necessary prerequisite to Mylan's development of a generic alternative to such medications.

After voluminous discovery, Celgene moved for summary judgment on all of Mylan's claims, but District Judge Esther Salas agreed with Mylan that factual issues existed concerning whether Celgene's conduct was anticompetitive, and an overarching scheme existed, as well as concerning Celgene's statute of limitations defenses. Following the Court's denial of Celgene's summary judgment motion, the case will proceed to trial sometime in 2019, where Celgene could be ordered to pay hundreds of millions of dollars in damages in addition to being subject to broad injunctive relief.