

## A Big Bunch of Litigator of the Week Runners-Up and Shout Outs

By Ross Todd  
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Our first runner-up is a team at **Cooley** led by **Travis LeBlanc** and **Dee Bansal** that on Nov. 9 secured a consent order with the Federal Trade Commission on behalf of client Zoom Communications Inc. The deal settles FTC claims that Zoom misrepresented its security features, including claims that its videoconferencing platform implemented end-to-end encryption when it hadn't, and requires the company to create an annual report of its internal and external security risks. As part of the deal, Zoom paid no monetary fine or penalty. The Cooley team also included **David Mills, Scott Dailard, David Navetta, Nick Flath, Chip Harrison, David Houska, Jina John, Matt Johnson, Kaitland Kennelly, Joseph Mornin, Natalie Pike, and Tania Soris.**

In a victory made extra sweet given that it landed just before Veterans Day, a Paul Hastings team led by Stephen Kinnaird working pro bono alongside the National Veterans Legal Services Program secured retroactive disability and death benefits for a class of

so-called "Blue Water" Navy veterans of the Vietnam War and their survivors. Blue Water veterans who served on ships in the territorial seas of Vietnam rather than inland waterways had previously been excluded from a deal struck to compensate those exposed to Agent Orange during the war. On Nov. 5, U.S. District Judge William Alsup in San Francisco found that Blue Water veterans are members of the previously certified class and that the VA had been improperly denying them benefits. The firm estimates the ruling could affect between 2,000 and 15,000 veterans and their survivors, and could result in an average of \$28,000 in benefits for each. The Paul Hastings team also included partner Sean Unger, senior associate Sarah Besnoff, and associate Alex Schulman.

Also landing a runner-up spot this week are litigators at Wilson Sonsini Goodrich & Rosati who made it more difficult for pharmaceutical companies to drag generic drug makers into brand-friendly venues such as Delaware and New Jersey. The Federal Circuit on Nov. 5 sided with Wilson Sonsini's client Mylan finding that under the U.S. Supreme Court's 2017 TC Heartland ruling branded pharmaceutical companies can only bring Hatch-Waxman Act litigation where a generic drug maker submits its Abbreviated New Drug Application—typically either that company's corporate headquarters or the FDA offices in Maryland. Wilson Sonsini's Steffen Johnson, T.O. Kong, Wendy Devine,

Kristina Hanson, Adam Burrowbridge, and Ed Powell represent Mylan in the matter.

A Winston & Strawn team led by Houston partners Hugh Tanner, Denise Scofield, and Rich McCarty gets a runner-up nod for beating back claims for more than \$223 million in damages that Hess Corp. brought against their client, Schlumberger Technology Corp., over four safety valves purchased for use in Hess's deepwater oil wells in the Gulf of Mexico. After a 10-day bench trial earlier this year, one of the last in Houston before the pandemic, U.S. District Judge Sim Lake denied Hess's motion for judgment, found that Hess was not entitled to damages and required Hess to pay a portion of Schlumberger's costs and attorneys' fees.

A team at Finnegan, Henderson, Farabow, Garrett & Dunner including partners Mark Sommers and Naresh Kilaru, and associate Morgan Smith gets a shout-out this week for scoring a trademark litigation win for the American Retirement Association, a non-profit organization that offers educational programs on employer-based retirement plans. ARA launched a new credential under the name Certified Plan Fiduciary Advisor, or CPFA, and faced claims from CFA Institute alleging the "CPFA" acronym infringed on the trademark for its "Chartered Financial Analyst" program, which operates under the acronym "CFA." U.S. District Senior Judge Norman Moon in West Virginia on Nov. 5 granted ARA's motion for summary judgment finding CFA Institute couldn't overcome "evidence regarding the sophistication of the consuming parties, the innocent intent of defendants, and, most importantly, the absence of any evidence indicating actual confusion in the marketplace."

Also getting a shout this week are lawyers for Boeing who got a lawsuit booted from Texas state court that was brought by the Southwest Airlines Pilots Association bringing claims for lost dues and pilot wages due to flight cancellations spurred by the grounding of the 737 MAX. Judge Aiesha Redmond of the 160th District Court in Dallas on Nov. 6 agreed with Boeing's jurisdictional argument and dismissed the suit. Boeing's counsel include Craig Primis, Michael Slade, Ronald Anguas, Kasdin Mitchell, Brandon Stone and Mark Gruetzmacher of Kirkland & Ellis and local counsel Leon Carter of Carter Arnett PLLC.

Also getting a shout out this week are Jeffrey Scott and Marc De Leeuw of Sullivan & Cromwell. Their 12-year legal saga initially saw client Barclays Bank facing \$1.5 billion in potential damages in a contract battle over a "total return swap" agreement—believe me, you do not want me to get into the details. After multiple appeals, a bench trial, and mountains of briefing in the case, the S&C pair this past week scored a summary judgment ruling on their counterclaims against hedge fund BDC Finance. Ruling from the bench on Nov. 5, New York State Supreme Court Justice Andrea Masley of the Commercial Division awarded Barclays more than \$2.6 million in damages, with pre-judgment interest, as well as attorneys' fees.

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