

## NEVIN M. GEWERTZ

PARTNER

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Nevin Gewertz is an accomplished trial lawyer who has received national recognition for his experience across a range of intellectual property and complex commercial cases. Nevin frequently represents major U.S. and international pharmaceutical, medical device, and other natural sciences companies in cases involving patent infringement, Lanham Act, breach of contract, and product liability claims. Nevin is also trial counsel in a variety of other complex matters, including for the former founders and employees of FanDuel in a lawsuit seeking damages for breaches of fiduciary duties by former members of the FanDuel board of directors and late-stage investors during a 2018 billion-plus dollar merger. Nevin also enjoys a vibrant pro bono practice. Notably, Nevin was selected as counsel by a consortium of 40+ bipartisan law professors and think tanks in a case involving the Executive Order attempting to strip federal funding from so called "sanctuary cities."

Nevin's accomplishments have been recognized by a number of legal publications, including *Benchmark Litigation*, *Chicago Magazine*, *Illinois Super Lawyers* and *Illinois Leading Lawyers*,

Nevin joined the firm in 2011 after clerkships with Judge Janice Rogers Brown of the United States court of Appeals for the District of Columbia and Chief Judge Sarah S. Vance of the United States District Court of the Eastern District of Louisiana. He graduated at the top of his class at The University of Chicago Law School, where he won the Hinton Moot Court Competition and was a member of the Law Review. Before that, Nevin graduated from Stanford University with Honors and as a Presidential Scholar, where he studied Biology and Political Science and did research on emerging stem cell therapies and genetic engineering.

### EDUCATION & HONORS

University of Chicago Law School, 2009, J.D., with High Honors

Order of the Coif

Kirkland & Ellis Scholar, awarded to the top five percent of the class

*University of Chicago Law Review*, Member

Hinton Moot Court Competition Champion, 2008-2009

John M. Olin Student Fellow in Law & Economics, 2008-2009

Thomas R. Mulroy Prize for Excellence in Appellate Advocacy and Oral Argument

Lord, Bissell & Brook Award for Outstanding Briefs in the Bigelow Moot Court Competition

Faculty Appointments Committee, Student Representative

Stanford University, 2003, B.S., Biology, with Honors, B.A., Political Science

Stanford University Presidential Scholar

Baxter Laboratory for Genetic Pharmacology, Research Assistant

Howard Hughes Research Fellow

National Science Foundation Graduate Research Fellow

Stanford Humanities Center Research Fellow

*Thesis: Development of a Novel Assay to Monitor Nuclear Translocation Using  $\beta$ -Galactosidase*

## CLERKSHIPS

Honorable Janice Rogers Brown, United States Court of Appeals for the District of Columbia Circuit, 2010-2011

Honorable Sarah S. Vance, United States District Court for the Eastern District of Louisiana, 2009-2010

## AWARDS & RECOGNITION

*Best Lawyers*, One's to Watch List

Recognized as a member of Benchmark Litigation's "40 & Under Hot List"

Illinois Super Lawyers Rising Star (2014-Present)

Illinois Leading Lawyers Emerging Lawyer (2016-Present)

Recognized by Chicago Magazine, Top Attorneys: Outstanding Young Lawyers in Illinois (2017-Present)

## ADMISSIONS

New York

Illinois

## CASES TRIED OR OTHERWISE TAKEN TO JUDGMENT

***Endo Pharmaceutical Solutions Inc. v. Paddock Laboratories LLC*** (D. Del.)

Trial counsel for plaintiffs in ANDA litigation relating to Endo's Aveded® testosterone undecanoate injection. Aveded® is the first FDA-approved long-acting testosterone replacement therapy injectable. Defendant Custopharm, Inc. sought to market a generic version of Aveded® and challenged as obvious two patents covering Aveded®'s unique composition and dosing regimen. After a bench trial, Judge Sue Robinson of the District of Delaware issued a memorandum opinion and order finding that Custopharm, Inc. had failed to show

that the patents covering Aveed® were invalid as obvious.

***Administradora v. E.I. DuPont de Nemours & Co., Inc.*** (Florida, Miami Dade County State Court)

Represented DuPont in three-week jury trial of product liability action involving Benlate fungicide. Plaintiff, a large Costa Rican citrus producer, claimed \$42 million in damages. The jury found plaintiff 60% contributorily negligent and awarded substantially reduced damages, resulting in an award of a small fraction of plaintiff's claim. Post-trial cross-motions are pending.

***Millennium Labs. v. Ameritox*** (D. Md.)

Trial counsel for Ameritox in a Lanham Act false advertising case concerning Ameritox's Rx Guardian urine drug testing services. Plaintiff challenged Ameritox's entire advertising campaign from 2008 to 2012, seeking substantial damages. Succeeded in excluding plaintiff's consumer survey and damages experts. After four weeks of argument, including a two-week trial before an advisory jury, the parties entered into a consent order to end the dispute, which resulted in Ameritox having to pay no money, nor change any of its products and services.

## OTHER REPRESENTATIVE CASES

***Nigel John Eccles et al. v. Shamrock Capital Advisors, LLC, et al.*** (State Court, New York)

Trial counsel for FanDuel founders and more than 120 former employees and angel investors in lawsuit against late-stage private equity investors and six of the seven former members of the board of directors of FanDuel. The suit alleges that the private equity investors and former board members wiped out the founders, former employees, and angel investors' in the company by breaching their fiduciary duties and unjustly enriching themselves in the wake of a 2018 merger between FanDuel and European bookmaker Paddy Power Betfair.

***Gilead Sciences, Inc. v. Regents of the University of Minnesota***, IPR2017-01712, IPR2017-01753, IPR2017-2004, and IPR2017-2005 (U.S. Patent & Trademark Office)

Counsel for Gilead in *inter partes* review proceedings before the Patent Trial and Appeal Board. Gilead's petitions argued in pertinent part that U.S. Patent No. 8,815,830, owned by the Regents of the University of Minnesota, is invalid as both obvious and anticipated by specific prior art references. The Board granted institution of one of Gilead's petitions (IPR2017-01712) and the proceeding is now in the trial phase.

***Regents of the Univ. of Minn. v. LSI Corp., et al.*** (Fed. Cir.)

Counsel for permissive intervenor Gilead Sciences in case of first impression regarding application of state sovereign immunity to *inter partes* review proceedings before the United States Patent and Trademark Office. In a precedential opinion on June 14, 2019, the Federal Circuit held that States were not immune from such proceedings. The Supreme Court later denied the University's petition for writ of certiorari in what was identified by Law360 as one of the "Biggest Patent Rulings Of 2019."

***Regents of the University of Minnesota v. Gilead Sciences*** (N.D. Cal.)

Trial counsel for Gilead in patent infringement action related to Gilead's hepatitis C treatments. Case pending.

***Adverio Pharma GMBH et al. v. Alembic Pharmaceuticals, Ltd. et al.*** (D. Del.)

Trial counsel for plaintiffs in Hatch-Waxman litigation relating to Bayer's Adempas® (riociguat) product. Case pending.

***County of Santa Clara v. Donald J. Trump, et al., 3:17-cv-00574; and City and County of San Francisco v. Donald J. Trump, et al., 3:17-cv-00485*** (N.D. Cal.)

Counsel for a bi-partisan consortium of over forty law professors as amici addressing Separation of Powers and Federalism issues in underlying litigation regarding Executive Order 13768, which concerns the provision of federal funding to sanctuary jurisdictions.

***Vernon H. Bowman v. Monsanto Company, et al.*** (U.S.)

Counsel for Pioneer Hi-Bred International, Inc. as *amicus* addressing the application of patent exhaustion to the Plant Variety Protection Act, 7 U.S.C. §§ 2321-2582.

***Gilead Sciences v. Mylan Pharmaceuticals*** (N.D. W.Va.)

Trial counsel for Gilead in Hatch-Waxman litigation relating to Evotaz®, an HIV treatment containing atazanavir and cobicistat. Case pending.

***Gilead Sciences v. Mylan Pharmaceuticals*** (D. Del.)

Trial counsel for Gilead in Hatch-Waxman litigation relating to Gilead's Tybost® (cobicistat) product. Case pending.

***Confidential AAA Arbitration***

Trial counsel representing "Big Four" accounting firm in accounting malpractice case related to tax and consulting services on ESOP transaction. Case settled.

***Various Plaintiffs v. Citadel***

Trial counsel for Citadel in various purported securities class actions brought against exchanges, broker/dealers, and trading firms. Cases pending in Southern District of New York.

***Erricos v. Stryker Corp.*** (Circuit Court, Kalamazoo County, Michigan)

Trial counsel for Stryker in breach of contract action stemming from Stryker's acquisition of SpineCore, Inc., a developer of artificial spinal discs. Plaintiffs alleged approximately \$250 million in damages. Won summary judgment in client's favor, after which case settled favorably.

***Xarelto Personal Injury Litigation***

National counsel for Bayer in defense of lawsuits alleging personal injuries caused by novel oral anticoagulant Xarelto.

***YAZ®/Yasmin® Litigation*** (MDL, S.D. Ill.)

National counsel for Bayer in litigation alleging personal injuries caused by YAZ® and Yasmin® (oral contraceptives). Cases pending in federal and state courts. MDL in Illinois.

***In re Factor VIII or IX Concentrate Blood Products Litigation*** (MDL, N.D. Ill.)

Representing Bayer in ongoing world-wide litigation alleging infection with HIV and hepatitis C from blood-based derivatives used to treat hemophilia.

***Stillman v. Novartis Consumer Health*** (C.D. Cal.)

Trial counsel for Novartis in patent infringement action relating to soluble fiber products. Case settled favorably.

**PROFESSIONAL ACTIVITIES AND COMMUNITY SERVICE**

Leadership Greater Chicago, 2020 Fellow

**ACKNOWLEDGEMENTS, PRESENTATIONS, AND PUBLICATIONS**

**PRESENTATIONS**

Law and Society Association and Canada Law and Society Association, Joint Annual Meetings, 2008

University of Chicago John M. Olin Program in Law & Economics, Contested Commodities Conference, 2008

National Institute of Mental Health, New Clinical Drug Evaluation Unit, 1998 and 1999

**NEWS**

Chicago Daily Law Bulletin Names Nevin Gewertz To Its 40 Under Forty To Watch  
10.09.2020

Bartlit Beck Files a Lawsuit Against KKR, Shamrock Capital, and Former Members of FanDuel Board of Directors  
02.25.2020

Nevin Gewertz named 2020 Leadership Greater Chicago Fellow  
06.07.2019

Bartlit Beck Wins Testosterone Injection Patent Appeal For Endo And Bayer  
07.13.2018

Scott McBride, Nevin Gewertz, Faye Paul and Taylor Meehan win ANDA trial for Bayer and Endo Pharmaceuticals  
02.13.2017

**PUBLICATIONS**

*Colorblind State Actions and the Limits of Racial Preference*  
*72 Law & Contemp. Probs.* 251, 2010, (with Michele Goodwin)

*Act or Asset? Multiplicitous Indictments under the Bankruptcy Fraud Statute*  
*18 U.S.C § 152, 76 U. Chi. L. Rev.* 909, 2009

Enzymatic Detection of Protein Translocation  
*2.7 Nature Methods* 521, 2005