



## 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**

Named one of 40 Illinois Attorneys Under Forty to Watch 2020

*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

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

Trial counsel for plaintiffs in ANDA litigation relating to Bayer's Adempas riociguat tablets. Riociguat is the first FDA-approved soluble guanylate cyclase stimulator for treatment of pulmonary arterial hypertension and chronic thromboembolic pulmonary hypertension. Three defendants sought to market a generic version of Adempas and challenged as obvious a patent covering the chemical compound, riociguat. The case settled favorably at the end of a bench trial before Judge Leonard P. Stark.

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

Counsel for Gilead in patent infringement litigation related to Gilead's hepatitis C treatments. District court litigation is currently pending. The Patent Trial and Appeal Board instituted an *inter partes* review and ruled that U.S. Patent No. 8,815,830 was invalid as anticipated by Gilead's own disclosure of the compound sofosbuvir. Case is now on appeal.

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

Trial counsel for plaintiffs in ANDA litigation relating to Endo's Aveed® testosterone undecanoate injection. Aveed® is the first FDA-approved long-acting testosterone replacement therapy injectable. Defendant Custopharm, Inc. sought to market a generic version of Aveed® and challenged as obvious two patents covering Aveed®'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. Case settled favorably after post-trial briefing.

### ***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.

## INTELLECTUAL PROPERTY CASES

### ***ViiV Healthcare v. Gilead Sciences, Inc.*** (D. Del.)

Counsel for Gilead in patent infringement case related to Gilead's Biktarvy HIV treatment. Case pending.

### ***Viasat, Inc. v. Western Digital Corporation, et al.; Viasat, Inc. v. Kioxia Corporation, et al.*** (W.D. Tex.)

Trial counsel for Viasat in patent infringement actions regarding forward error correction technology in NAND flash memory. Forward error correction can significantly improve the reliability and lifespan of NAND flash

memory products, which are notoriously error prone. Cases are currently pending.

***Valmarc Corp. (“Vi3”) v. Nike, Inc.*** (D. Or.)

Trial counsel for Vi3 in action against Nike for misappropriation of Vi3’s trade secrets. The trade secrets relate to Vi3’s proprietary anticounterfeiting technology, which Vi3 developed to help brands identify knockoff versions of their products and combat counterfeiters.

***Wright Medical Technology, Inc. v. Paragon 28, Inc.*** (D. Col.)

Trial counsel for Wright Medical in trade secret misappropriation and patent infringement action. Wright’s allegations concern the misappropriation of both commercial and technical trade secrets, including Wright’s Ortholoc 3Di polyaxial locking technology that exists in various Wright Medical foot and ankle plates. Case is currently pending.

***Zentian, Ltd. v. Apple, Inc.; Zentian, Ltd. v. Amazon.com, Inc.*** (W.D. Tex.)

Trial counsel for Zentian in patent infringement actions regarding hardware speech recognition systems and architecture developed in the early 2000s. These technologies facilitate on-device speech recognition functions, including the “always on” wake word/phrase, dictation of text messages and notes, and/or speech recognition for Alexa and/or Siri user requests. Cases are currently pending.

***Wright Medical Technology, Inc. v. Paragon 28, Inc.*** (D. Del.)

Trial counsel for Wright Medical in patent infringement action regarding its total ankle replacement system, covered by U.S. Patent Nos. 9,907,561 and 10,888,336 (titled “Ankle Replacement System and Methods.”) The suit alleges that Paragon 28’s APEX 3D total ankle replacement system infringes various aspects of these two patents. Case is currently pending.

***Northwestern University v. Universal Robots, et al.*** (D.Del. and N.D. Ill.)

Lead trial counsel for Northwestern University in a series of patent infringement cases against the manufacturers of certain industrial robots that were invented at Northwestern University in the research laboratories of Drs. Michael A. Peshkin and J. Edward Colgate. The asserted patents—U.S. Patent Nos. 6,928,336, 6,907,317, and 7,120,508—claim groundbreaking work on intelligent assist systems known as collaborative robots or “cobots,” programmable robotic devices that can safely interact with human operators in a shared workspace. The lawsuits are part of Northwestern’s overall stewardship of life-changing technology developed by its faculty through the enforcement of intellectual property rights, as well as technology licensing, corporate partnerships, entrepreneurial support, and startup creation.

***2BCom, LLC v. Bayerische Motoren Werke AG, et al.*** (C.D. Cal.):

Counsel for 2BCom, LLC in patent litigation involving patents concerning methods and devices for facilitating efficient data transfer over a wireless communication network that were allegedly infringed by BMW’s Hotspot ConnectedDrive System. Case settled favorably.

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

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

***Ginegar LLC v. Oracle*** (W.D. Tex.):

Counsel for Ginegar LLC in patent litigation involving patents acquired from IBM Corp. concerning managing the resources of a logically partitioned computing system, as well as object oriented based methodology for modeling business functionality, allegedly infringed by Oracle's server virtualization and partitioning technology for SPARC and Business Process Management suite of tools, respectively.

***Ginegar LLC v. Slack*** (D. Col.):

Counsel for Ginegar LLC in patent litigation involving patents acquired from IBM Corp. that concern a method of processing instant messages, as well as systems and methods for a multi-modal instant messaging, allegedly infringed by the Slack's communication platform. Case pending.

***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 settled favorably.

## 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.

***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."

***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.

***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**

Bartlit Beck Lawyers Named to Benchmark Litigation's 40 & Under Hot List 2021  
07.23.2021

Bartlit Beck Wins Inter Partes Review (IPR) Trial for Gilead Sciences, Inc.  
05.21.2021

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, and Faye Paul Teller 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