

Weil's Diane Sullivan on Making Room at Counsel Table for New Partners

The veteran trial star teamed with new partners Chantale Fiebig and Liz Ryan, who both joined the firm last year, to represent regional grocery and pharmacy chain Giant Eagle in the first bellwether trial involving pharmacy defendants in the national opioid MDL.

By Ross Todd
July 14, 2022

It was heck of a time to get a new trial team together.

Last fall Giant Eagle, a regional grocery and pharmacy chain, hired veteran **Weil, Gotshal & Manges** trial star **Diane Sullivan** about a month and a half before the first bellwether trial in the national opioid MDL involving pharmacy defendants. Giant Eagle was going to trial alongside codefendants CVS, Walgreens and Walmart. With the Omicron variant surge picking up steam and the firm's offices closed, Sullivan told the Lit Daily earlier this week that pulling a trial team together on short notice was "a challenging affair to say the least."

"People were scared," Sullivan said. "People had young kids at home. There was no vaccine yet for children. People had concerns about their living with elderly parents. And so to staff a team in Cleveland, in a hotel, a jury trial, war rooms and all of that sort of [stuff] in the heart of COVID was challenging."

But two of Sullivan's newest partners, **Chantale Fiebig** in Washington, D.C. and **Liz Ryan** in Dallas, both of whom joined the firm just months



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L-R: Diane P. Sullivan, Chantale Fiebig, and Liz Ryan of Weil, Gotshal & Manges

before the trial date, stepped up to join the trial team in Cleveland.

Sullivan knew both had trial chops from their bios: Fiebig had been a litigation partner at **Gibson, Dunn & Crutcher** and an assistant U.S. attorney in the Eastern District of Michigan prior to joining Weil in June 2021. Ryan joined that March from respected Dallas trial boutique **Lynn Pinker Hurst & Schwegmann**. Ryan's work, in particular, for Purdue Pharma in opioid litigation prior to the company's bankruptcy had her well-steeped in the subject matter.

Still, Sullivan says she was candid with her new partners. “I have tried big cases for many, many months where I’ve done every single witness in the case. So I figured I’d give my new partners a test run given their spectacular bios,” said Sullivan, who got to know the pair a bit over Zoom during their recruitment and in preparations for the trial team’s move to Cleveland. But Sullivan said she told them: “You’re gonna get the hook if things don’t work out.”

Thankfully for everyone on the trial, things did seem to work out. Sullivan, as is her typical practice, kept the team at counsel table small: Just her and Fiebig, with Ryan coordinating the work of the larger team in the war room and leading witness preparation, a task that was largely done remotely. “I think it’s pretty important in cases where you’ve got sort of a David and Goliath look that when you’re a big company [you need] to have your trial team in front of the jury to be lean,” Sullivan said.

Then again, with CVS, Walgreens and Walmart in the room, Giant Eagle was hardly the biggest of the Goliaths on trial against the two Ohio County plaintiffs. One could hardly blame lead plaintiffs lawyer **Mark Lanier** if he wanted to get Sullivan — who scored a defense win in an early Vioxx bellwether trial against Lanier more than a decade-and-a-half ago — and her client out of the case. That feeling was likely compounded when Fiebig scored points on cross examination of one of the two plaintiffs’ representatives. In her questioning, Fiebig raised the point that the county plaintiffs hadn’t taken adequate action to address heroin use, which was killing local residents who were disproportionately young and

Black — something the official had admitted to being ashamed of during a deposition. “I think that was a topic that resonated with our jury and particularly some of our diverse jurors,” Sullivan said.

The plaintiffs reached a settlement with Weil’s client midtrial just as the team was preparing to put on the company’s defense. The Cleveland federal jury later found in November that CVS, Walmart and Walgreens contributed to the opioid epidemic. U.S. District Judge Dan Polster, who is overseeing the MDL, held a bench trial on the damages phase of the case in May, with each of the counties asking for more than \$1 billion to address the opioid crisis.

Meanwhile, Giant Eagle reportedly paid Trumbull County, Ohio, just \$1,125,000 as part of the broader settlement to resolve 10 lawsuits brought by public entities in the state. The settlement has allowed the company to continue to deny it was a cause of the opioid crisis. Since settling Giant Eagle has sued its insurers in the Western District of Pennsylvania seeking to recover \$30 million in defense costs associated with opioid MDL and the total settlement amount with MDL plaintiffs, which the complaint in the insurance case pegged at more than \$2 million.

As for Sullivan, she estimates that only about 10% of her current docket is opioid work, including some work for companies beyond Giant Eagle that isn’t public yet. She says that she also has cases in the works with both Fiebig and Ryan, but likewise, nothing that’s hit a public docket. “I’m working with the gals a lot. It’s been fun,” Sullivan said. “I might not retire anytime soon if I can keep working with these guys.”