



## Thomas M. Sobol

PARTNER

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### Years of Experience

35

### Industry Experience

Pharmaceuticals

Medical Devices

Health Plans

### Bar Admissions

Massachusetts

Rhode Island

### Court Admissions

First Circuit Court of Appeals

Second Circuit Court of Appeals

Supreme Court of the United States

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Voted Massachusetts Ten Leading Litigators

—*The National Law Journal*

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### Current Role

- Partner & Executive Committee Member, Hagens Berman Sobol Shapiro LLP



- Leads Hagens Berman's Boston office
- Leader in drug pricing litigation efforts against numerous pharmaceutical and medical device companies
- Lead negotiator in court-approved settlements totaling more than \$2 billion
- Currently court-appointed lead counsel for *In re Skelaxin Antitrust Litigation*, *In re Nexium Antitrust Litigation*, *In re Lipitor Antitrust Litigation*, *In re Effexor Antitrust Litigation* and *In re Wellbutrin XL Antitrust Litigation*
- Appointed lead counsel in MDL No. 2419: *In re New England Compounding Pharmacy Inc. Products Liability*, representing more than 700 victims who contracted fungal meningitis or other serious health problems as a result of receiving contaminated products produced by NECC, resulting in a \$200 million settlement
- Lead counsel to the *Prescription Access Litigation (PAL)* project, the largest coalition of health care advocacy groups that fight illegal, loophole-based overpricing by pharmaceutical companies

## Experience

- Seventeen years in large Boston firm handling large complex civil litigation
- Special Assistant Attorney General for the Commonwealth of Massachusetts and the states of New Hampshire and Rhode Island
- Private counsel for Massachusetts and New Hampshire in groundbreaking litigation against the tobacco industry (Significant injunctive relief and recovery of more than \$10 billion)
- Judicial clerk for Chief Justice Allan M. Hale, Massachusetts Appeals Court, 1983-1984
- Board Chairman, New England Shelter for Homeless Veterans, 1995-2002

## Recent Success

- Neurontin class action marketing settlement (\$325 million)
- NECC meningitis outbreak settlement (\$200 million)
- Flonase direct purchaser litigation settlement (\$150 million)
- Wellbutrin XL direct purchaser litigation (\$37.5 million)
- First Databank litigation (4% price reduction of most retail drugs)
- McKesson litigation (\$350 million)
- Zyprexa litigation on behalf of the State of Connecticut (\$25 million)
- Vioxx third party payor litigation (\$80 million)
- Paxil direct purchaser litigation (\$150 million)
- Co-lead trial counsel in the Neurontin MDL (\$142 million RICO jury verdict)



## Recognition

- Massachusetts Ten Leading Litigators, *The National Law Journal*

## Notable Cases

- **\$142 Million Civil RICO Jury Verdict in Massachusetts Regarding Neurontin**  
On Mar. 25, 2010, following a four-and-a-half week trial and two days of deliberations, a jury in the U.S. District Court for Massachusetts returned a \$142 million RICO verdict against Pfizer, Warner Lambert and Parke Davis in a suit related to Pfizer's fraudulent and unlawful promotion of the drug Neurontin. The jury also found, in an advisory capacity, that defendants violated the California Unfair Competition Law. HBSS served as co-lead trial counsel for Plaintiffs Kaiser Foundation Health Plans and Kaiser Foundation Hospitals. HBSS attorneys played a pivotal role in preparing the case for trial. Thomas Sobol, managing partner of the HBSS Boston office, examined seven economic and scientific experts and presented the evidence of defendants' decade-long campaign of fraudulent and deceptive actions in his closing argument that resulted in the RICO verdict. Post-trial briefing is underway and a final judgment has not yet been entered. *Kaiser Foundation Health Plan, et al v. Pfizer, Inc., et al, D.Mass., Civil Action No. 04-cv-10739 (PBS)*.
- **\$150 Million Settlement for Consumers and TPPs for Purchases of Lupron**  
In late 2004, HBSS announced a proposed resolution on behalf of consumers and third-party payors of Lupron in the amount of \$150 million. The litigation alleged widespread fraudulent marketing and sales practices against TAP Pharmaceuticals, a joint venture between Abbott Laboratories and Takeda Pharmaceuticals, Inc., and followed TAP's agreement to pay \$875 million in combined criminal and civil penalties regarding marketing and sales practices for the prostate cancer drug Lupron. HBSS served as court-appointed Co-Lead and Liaison Counsel. *In re Lupron Marketing and Sales Practices Litigation, D.Mass., MDL No. 1430*.
- **\$150 Million Resolution on Behalf of Direct Purchasers of Paxil**  
HBSS announced a \$150 million resolution of claims in 2004 in litigation on behalf of direct purchasers of the "blockbuster" selective serotonin reuptake inhibitor Paxil, manufactured by GlaxoSmithKline Corporation. The suit alleged that GSK engaged in sham litigation with respect to certain patents, all in an effort to delay competition from the entry of a generic form of the drug. HBSS served as court-appointed Co-Lead Counsel. *In re Paxil Direct Purchaser Litigation, E.D.Pa., Civil Action No. 03-4578*.
- **The Major First Databank Price Rollback**  
The First Circuit Court of Appeals recently affirmed the approval of a settlement reached between plaintiff health benefit plans and consumers in a class action against defendants First DataBank, Inc. (FDB) and Medi-Span, two leading drug pricing publishers. The settlement resulted in a rollback of benchmark prices of some of the most common prescription medications and which could save consumers and other purchasers hundreds of millions of dollars. The settlement stems from a 2005 class-action lawsuit brought on behalf of health benefit plans and consumers against First DataBank and McKesson Corporation, a large pharmaceutical wholesaler. Plaintiffs



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claimed that beginning in 2001, FDB and McKesson secretly agreed to raise the markup between the Wholesale Acquisition Cost and the Average Wholesale Price from 20 to 25 percent for more than 400 drugs, resulting in higher profits for retail pharmacies at the expense of consumers and payors.

On June 6, 2007, Judge Patti B. Saris of the District of Massachusetts preliminarily approved a settlement between the parties whereby FDB agreed to roll back pricing by five basis points, from 1.25 to 1.20, on the drugs included in the lawsuit as well as hundreds of other drugs, which should create cost-savings on a much broader range of prescription medications. An alphabet soup of associations representing pharmacies and pharmacy benefit managers fought the proposed rollback before federal trial and appellate courts, claiming either that small pharmacies would be put out of business through implementation of the rollback or that the savings to health plans and consumers would not be enough to justify the settlement. The courts rejected these claims and in a ruling on Sept. 4, 2009, the First Circuit Court of Appeals affirmed the approval of the settlement.

*New England Carpenters Health Benefits Fund et al v. First DataBank, Inc. and McKesson Corp., D.Mass., Civil Action No. 05-cv-11148-PBS; District Council 37 Health and Security Plan et al v. Medi-Span, D.Mass., Civil Action No. 07-cv-10988-PBS.*

- **\$75 Million Resolution Against GSK and Its Predecessors for Relafen**

HBSS was court-appointed liaison counsel and the firm has helped spearhead this litigation against GlaxoSmithKline Corporation and its predecessors, alleging that GSK fraudulently obtained a patent to prevent a generic version of Relafen, a frequently prescribed brand name pharmaceutical, from coming to market. Litigated for 12 to 18 months, HBSS announced a proposed \$75 million resolution of end-payor claims in 2004.

*In re Relafen Antitrust Litigation, D.Mass., Master File No. 01-12239-WGY.*

- **\$25 Million for the State of Connecticut for Zyprexa Fraud**

On Oct. 5, 2009, Judge Jack B. Weinstein, U.S. District Court Judge in the Eastern District of New York, entered an Order for Entry of Final Judgment in *State of Connecticut v. Eli Lilly and Co.*, approving the \$25 million settlement reached by the parties to conclude the state's Zyprexa litigation. HBSS served as outside counsel to Attorney General Richard Blumenthal in the litigation that alleged *Lilly* engaged in unlawful off-label promotion of the atypical antipsychotic Zyprexa and made significant misrepresentations about Zyprexa's safety and efficacy, resulting in millions of dollars in excess pharmaceutical costs borne by the State and its taxpayers.

*State of Connecticut v. Eli Lilly & Co., E.D.N.Y., Civil Action No. 08-cv-955-JBW.*

- **\$65.7 Million Recovery in Antitrust Action Concerning Tricor**

On Oct. 29, 2009, Chief Judge Sue Robinson of the District of Delaware approved a \$65.7 million recovery for consumers and third party payors who sued Abbott Laboratories and Fournier Industries in an antitrust action concerning the cholesterol drug Tricor. Plaintiffs alleged Abbott and Fournier manipulated the statutory framework regulating the market for pharmaceuticals by instituting baseless patent litigation against generic manufacturers, and manipulative switching of dosage strengths and forms, which resulted in delayed entry of generics and thus lower prices into the market. HBSS served as Co-Lead Class Counsel in the case.

*In re Tricor Indirect Purchaser Antitrust Litigation, D.Del., Civil Action No. 05-cv-360.*



## Education



Boston University School of Law, J.D., *cum laude*, 1983



Clark University, B.A., *summa cum laude*, Phi Beta Kappa, 1980