

Skilled in the Art: Patterson Belknap Leads Gilead Sciences' Charge Against Alleged Pharma Counterfeits

By Scott Graham

Patterson Spearheads Gilead's Counterfeiting Case

Louis Vuitton. Rolex. Nike. These are the brands that first come to mind when I hear about counterfeit goods.

But counterfeit pharmaceuticals?

It's a documented problem in lower-income countries. But **Gilead Sciences** is alleging that a U.S.-based network of suppliers, wholesalers and marketers schemed to supply counterfeit HIV meds to U.S. pharmacies and, ultimately, consumers.

Gilead alleges in documents unsealed Tuesday by **U.S. District Judge Ann Donnelly** of the Eastern District of New York that wholesaler **Safe Chain** and a host of others distributed Gilead-branded bottles of medications such as Biktarvy and Descovy that actually were stuffed with over-the-counter analgesics and even some anti-psychotic pills. The bottles were resealed and distributed to pharmacies including a Maryland outlet of **The Medicine Shoppe**, which sold them to individuals who were relying on the drugs to treat or prevent HIV, Gilead alleges.

"Safe Chain is a willful trafficker of counterfeit HIV and other medications, and has knowingly put an untold number of patients' health and lives at risk in order to make an illicit profit," Gilead

contends in a 101-page complaint signed by **Patterson Belknap Webb & Tyler** partner **Geoffrey Potter**.

Gilead's team, which also includes partners **Aron Fischer**, **Timothy Waters**, counsel **Tom Kurland** and associates **Joshua Stein** and **Gizele Rubeiz**, obtained a series of orders last fall enjoining the sales of Gilead-branded pharmaceuticals and seizing millions of dollars of assets ranging from Safe Chain's inventory and equipment, to its owners' 401(k)s, to a marketer's **Coinbase** account.

Safe Chain is represented by **Frier Levitt** partners **Jason Silberberg**, **Jesse Dresser** and **Todd Mizeski**, and associate **Lucas Morgan**. The company is seeking to dismiss portions of Gilead's complaint, including the dilution allegation on the ground that Biktarvy, Descovy and Atripla do not meet the high standard for "famous" marks.

Safe Chain is also asking for immediate mediation. In letter briefs to Donnelly last week, Silberberg said that Safe Chain "views itself as a good faith operator that sells thousands of legitimate products to its customers," and that Gilead's "aggressive and abusive litigation tactics" have put company owners on the brink of financial



courtesy photo

Geoffrey Potter of Patterson Belknap Webb & Tyler

ruin before they've had a chance to respond to the allegations.

The Medicine Shoppe store denies most of the allegations against it and is cross-claiming against Safe Chain. "If the Medicine Shoppe Defendants unknowingly sold counterfeit Gilead medication as alleged in the Complaint," **Richard Trenk of Trenk Isabel** writes, "then it did so because Safe Chain and/or Propharma knowingly and willfully provided false and manufactured bottles with counterfeit medication and provided documentation that provided a false pedigree which caused the the Medicine Shoppe Defendants to unknowingly purchase said counterfeit medication and sell it to their customers."