

## Eye of the Storm: Weil's Chantale Fiebig and Liz Ryan on Helping Clients Navigate the Litigation Fallout of Public Crises

The litigators, who both joined Weil, Gotshal & Manges last year, were trial counsel alongside partner Diane Sullivan for grocery chain Giant Eagle in the bellwether trial of pharmacy defendants in the national opioid MDL.

By Ross Todd  
February 7, 2022

The opioid crisis.

The clean diesel emissions scandal.

Cambridge Analytica.

Aside from the reputational hit, some public crises have a long litigation tale for the companies wrapped up in them. And it's precisely in the sorts of cases that spin out of public crises where you're likely to find **Chantale Fiebig** and **Liz Ryan** of Weil, Gotshal & Manges on the defense side.

Fiebig, who is based in Washington, D.C., and Ryan, who is based in Dallas, were trial counsel alongside partner **Diane Sullivan** for grocery chain Giant Eagle in [the bellwether trial](#) of pharmacy defendants in the national opioid MDL last year. Ryan also previously represented Purdue Pharma in opioid suits in Ohio and Oklahoma. Fiebig defended Daimler and Mercedes-Benz from RICO and consumer protection claims in a class action spinning out of the diesel emissions scandal and Facebook in civil litigation brought by the DC Attorney General relating to the Cambridge Analytica scandal.

The Litigation Daily recently asked Fiebig and Ryan about the unique factors lawyers representing companies caught up in litigation spinning out of widespread, highly publicized crises need to take into consideration. Here's what they had to say.

**Lit Daily:** What skills are essential for a lawyer representing a client who is facing claims as part of a large-scale public crisis?



**Chantale Fiebig(L) and Liz Ryan(R) of Weil, Gotshal & Manges.**

**Chantale Fiebig:** They must be versatile, calm under pressure, and forthright with their clients. When our clients are facing such high-stakes challenges, what they value most is practical legal advice that is three steps ahead in terms of what they need to know to get through the immediate crisis, a sense of what they can expect next, and an affirmative, compelling and accurate narrative that crystallizes for many audiences at once the basis for our clients' position.

**Liz Ryan:** To add to that, the best lawyers have the ability to maintain perspective, focus intently on achieving the client's overall goals and relentlessly advance

the affirmative narrative. Often, we have to do that at a rapid pace, quickly responding to unexpected media inquiries — sometimes with incomplete information. The challenge is in sending the right message and striking the proper tone in those communications. But that challenge, among many others, is what makes our jobs exciting and rewarding. And it's especially gratifying when these matters end in a trial, where we get to breathe life into our clients' cases for the jury.

**I gather that you two think that cooperation between unrelated co-defendants is essential in these sorts of cases. Why is that?**

Fiebig: There are many reasons, but I'll name just a few. Having a coordinated defense can be invaluable, including for information sharing where appropriate; for developing common themes; to allow more efficient communications with plaintiffs and the court; and to achieve cost savings for clients through coordination on joint experts or other aspects of the defense.

It's particularly important in multi-defendant matters, and especially at trial. It's also critical to remember that the jury is always watching, and how defendants or their counsel interact can matter to them. For example, we were recently representing one of the pharmacy defendants in the national bellwether trial in the opioid MDL, and the judge allowed the jurors to pass forward handwritten notes with questions for witnesses. Counsel for all four defendants worked together to ensure we all had a chance to review the questions before they were asked and while the witness was still on the stand, so the jurors could see that we were all taking their questions very seriously throughout the trial.

Ryan: Working effectively with co-defendants is one of Chantale's many outstanding skills. It's still fairly rare for the lead trial counsel to be a woman, even though there are many exceptionally capable and accomplished female trial lawyers, like our partner **Diane Sullivan**. We have found that building relationships with other lawyers — whether before trial in a joint defense group or during courtroom proceedings — can be an extremely effective way to earn trust, respect and influence. Also, at the end of the day, the legal community is relatively small, and there are a lot of repeat players in these high-stakes cases, so close cooperation can lead to very meaningful and lasting relationships within the bar.

**How do you handle a case involving an issue that's received extensive media coverage, does it impact your approach, and how so?**

Fiebig: Our singular focus is on achieving excellent results for our clients, and that does not change based on media coverage. But in those headline-grabbing cases that receive constant media attention, we often work closely with clients on media strategy, which includes ensuring that the senior-most executives and members of the board are informed and prepared for the press. We have also studied closely the ways press coverage can influence everyone — potential plaintiffs, regulators and members of a jury pool — and we take that into careful consideration in our overall legal strategy, particularly when we need to change the public narrative in order to have any chance of prevailing in our case.

Ryan: There are also instances where our client is party to a lawsuit that generates extensive media coverage, but where our client is not the primary focus of that coverage. In those circumstances, the last thing we want to do is shine a spotlight where there isn't one. That means that we are circumspect not only in press statements, but also in public filings or court hearings. And, regardless of the amount of coverage devoted to a client, when we are navigating high-profile cases, we are mindful of how our words and strategic choices may be perceived in the press and we ensure that they align with our client's desired image and business reputation.

**These cases often have sympathetic victims. How do you humanize your corporate clients and steer clear of victim-blaming?**

Ryan: In those cases, I acknowledge and embrace that sympathy. It is difficult to tell jurors that they should ignore someone else's grief or misfortune. Instead, our job is to remind them that they can both care about the victim and find that our clients were not the cause of the harm. An important part of that message is finding a corporate witness with whom the jury can connect and who can humanize the company. Another crucial aspect is always treating that victim respectfully, even when you have to question certain parts of their case or story.

Fiebig: That's absolutely right. And in many of our cases, even if there are sympathetic victims, those are not the parties we are typically litigating against — rather, it's more often a former business partner, a government

entity, an interested organization, or even a competitor. As a result, we are able to focus our strategy on why our clients should not or cannot be liable.

**How do you prepare witnesses who may be particularly anxious about testifying in high-profile cases?**

Fiebig: Liz is a master at this. She is able to take even the most reluctant senior executives and help them understand what to expect in the courtroom so that the process is totally demystified. That allows her to focus their prep on the substantive issues at hand and the most critical parts of their testimony.

Ryan: A tremendous amount of psychology goes into effectively preparing a witness for testimony. Human brains hate uncertainty. It signals danger and thus makes us very anxious — the past two-years of pandemic living are a prime example. To dispel anxiety, as Chantale said, we walk our witnesses through every aspect of the testimony and proceeding, right down to where everyone will be sitting in the courtroom. We work with the witness to focus on what they can control, such as their familiarity with key documents and the essential points for their testimony.

**Does your approach to jury selection change in cases involving topics that affect the public?**

Fiebig: Absolutely. I would not choose the same jury in a case involving widespread public deception as I would in a high-value contract dispute between private parties, for example. When issues hit close to home, it's even more important to carefully select jurors who will be able to set aside their personal experiences and potential biases so that they can consider the evidence objectively. It's critical to rigorously test that during voir dire as much as possible.

Ryan: On top of that, in prominent cases or cases of great public concern, jury questionnaires are indispensable. A

well-constructed jury questionnaire can provide crucial information about a juror's predispositions, exposure to the key issues in the case, and familiarity with themes and concepts that either side may want to advance. In my opinion, the jury questionnaire can be just as important as the jury charge. Start the draft early and fight for it as you would the verdict form.

**Many of your clients are global corporations, and are not only facing US litigation and potentially regulatory or government investigations, but also they may be facing international proceedings. How do you manage the many facets of these cases?**

Fiebig: We are very fortunate to practice at Weil, which has outstanding lawyers in every key practice group, and in jurisdictions around the world. What we offer our clients is a willingness and ability to partner with them and to provide comprehensive strategic legal advice, so that we can help them avoid litigation altogether if that is their goal, or give them their absolute best chance to prevail in the courtroom.

Ryan: Exactly. Weil has a deep bench. It also truly behooves our clients to have all of those key practice groups available and collaborating from the outset, rather than picking up teams or players and developing strategy as issues arise. I joined Weil from a trial boutique, where we only tried cases and did not have the benefit of working with other practice groups within the firm. At Weil, I have seen how tremendously our clients benefit from exceptional lawyers within a single firm, including lawyers who can advise clients on everything from transactional and regulatory issues, to constitutional and appellate issues, to tax and restructuring matters. And, on top of all of that, we have some of the best trial attorneys in the country. Our clients truly get the best of all worlds.