

EXHIBIT 3

Thompson Taps Feldman As Brooklyn Chief Assistant

Brooklyn District Attorney-elect Kenneth Thompson has announced the appointment of Mark Feldman, deputy inspector general for the Metropolitan Transportation Authority as chief assistant district attorney. As second-in-command to Thompson, Feldman will oversee the management of the office on a daily basis and direct specialized task forces and divisions.

Feldman was previously the head of the organized crime and racketeering section of the Eastern District U.S. Attorney's Office, where he supervised the prosecution of several mafia-related murder cases, including the leadership of all five Mafia families operating in New York. In addition, Feldman was an assistant district attorney in the Brooklyn, Manhattan and Queens District Attorney's offices.

"Mark Feldman is an outstanding lawyer and someone whose integrity is beyond reproach. Whether it's prosecuting organized crime rings or investigating fraud, he has proved himself to be one of the best prosecutors in New York," said Thompson in a statement.

Merck Settles Claims Over Side Effects of Fosamax

Merck has announced that it has agreed in principle to settle with plaintiffs' lawyers in multi-district litigation over alleged side effects caused by its Fosamax anti-osteoporosis drug. In a statement Monday, the company said it is paying \$27.7 million in the proposed settlement of all existing product liability cases alleging that Fosamax causes osteonecrosis of the jaw.

U.S. District Judge John Keenan of the Southern District of New York has tried a number of "bellwether" cases to set the parameters for settlement in some 1,200 federal cases pending over the drug, and the company has prevailed in most of those trials, with one notable exception: the \$8 million verdict for plaintiff Shirley Boles in 2010 that was later reduced by the judge to \$1.5 million (NYLJ, Sept. 1, 2011).

On Aug. 30, Keenan ordered that 200 cases a month would be remanded to the federal district courts from which they originated, an order sought by plaintiffs' lawyers James Green of Ashcraft & Gerel and Timothy

O'Brien of Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, and opposed by defense attorneys Paul Strain of Venable and William Beausoleil and Daniel Osborn of Hughes Hubbard & Reed.

—Mark Hamblett

Locke Lord Alum Form IP Litigation Boutique

Three lawyers from Locke Lord have formed an intellectual property litigation boutique that will represent both patent holders and accused infringers.

Kroub, Silbersher & Kolmykov was founded last week by Gaston Kroub, Zachary Silbersher and Sergey Kolmykov. Kroub was a partner at Locke Lord, Kolmykov was counsel and Silbersher was an associate.

Silbersher and Kolmykov moved to Locke Lord, where they practiced for five years, from the now-defunct IP boutique Morgan & Finnegan. Kroub had joined Locke Lord from Greenberg Traurig. "We're all sort of young guys, just under 40," who realized "we can provide patent litigation services potentially at a better price point," Silbersher said. "We wanted to start a firm that was leaner, more nimble." He said the group's hourly rates at Locke Lord averaged in the high \$600s and the model at the new firm will include monthly flat fees to clients who "want predictability."

"We're doing a lot of networking on our own and reaching out to potential clients. The motivation is to be entrepreneurial. That was really what drove us" to make the leap and create a new business model, Silbersher said.

Patton Boggs and Locke Lord are in merger talks but Silbersher said those discussions did not influence the three lawyers. David Greene, managing partner of Locke Lord's New York office, said, "Their parting was their decision and we wish them the best of luck."

—Christine Simmons
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Divorce Judge Finds Pet to Be 'More Than Property' »2



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On Statute of

BY MARK HAMBLETT

THE CONVICTIONS of three General Electric Co. employees for conspiring with brokers to sell below-market rates on the bonds that GE pays to cities on municipal bonds have been thrown out of federal appeals court.

A 2-1 panel of the U.S. Court of Appeals for the Second Circuit said Monday that the state limitations had run out on the government in its prosecution of Peter Grimm, Dominick Carullo and Steven Goldberg for rigging the market on interest rates.

Judges Dennis Jacobs and Chester Straub held in *United States v. Grimm*, 12-4310-cr, that artificially depressed interest payments are not "acts" that extend the five-year limitations period in which prosecutors must bring an indictment.

Judge Amalya Kearse dissented, arguing that U.S. District Judge John Baer of the Southern District of New York was correct to rule that the limitations period had not run.

Grimm, Carullo and Goldberg worked in 1999 in a GE unit that served as a provider of guaranteed investment contracts (GITs) which earn money for cities from the proceeds of municipal bonds on projects are completed.

Judge Jacobs

Defense Seeks

BY ANDREW KESHNER

ATTORNEYS for a convicted military contractor are locked in a battle with federal prosecutors over the release of information the government obtained during an eight-month probe into whether the defendant threatened a judge, prosecutors and a defense attorney.

Lawyers for David H. Brody, sentenced to prison for his role in a \$200 million fraud and obstruction of justice case, are seeking information in a motion to compel that also requests U.S. District



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Merck agrees to proposed \$27.7 million settlement over Fosamax lawsuits

BY NATE RAYMOND AND JESSICA DYE

NEW YORK | Mon Dec 9, 2013 5:06pm EST

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(Reuters) - Merck & Co Inc said on Monday that it was prepared to pay \$27.7 million to settle lawsuits by hundreds of people who sued the company over allegations that its osteoporosis drug Fosamax caused bones in the jaw to deteriorate.

Lawyers for Merck and plaintiffs disclosed the proposed settlement at a court hearing in New York to resolve 1,140 lawsuits pending in federal and state courts. Any settlement would need to be approved by a judge.

Merck, which confirmed the agreement later on Monday, said the accord requires a 100 percent participation rate and evidence that the claimants satisfy eligibility requirements. The deal covers about 1,200 people, the company said.

"We hope to bring this to a successful conclusion," Paul Strain, a lawyer for Merck, said at the hearing in U.S. District Court in Manhattan before Judge John Keenan, who has presided over federal litigation by plaintiffs claiming that they developed osteonecrosis of the jaw from taking Fosamax.

The condition is a disease that causes bones in the jaw to deteriorate or die.

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The settlement would resolve a large portion of the 5,255 product liability cases facing Merck over Fosamax, a one-time blockbuster drug with \$3 billion in sales in 2007.

Sales have declined since Fosamax lost patent protection in 2008. Through September, Merck had reported \$421 million in Fosamax sales in 2013.

Of the lawsuits over Fosamax, about 860 of the cases were before Keenan. Since the cases were consolidated in 2006, Keenan has presided over all of the federal cases.

The judge had held a series of "bellwether" trials, allowing Merck and plaintiffs' lawyers to assess trends and outcomes in similar cases.

The last Fosamax trial before Keenan resulted in a \$285,000 verdict for plaintiff Rhoda Scheinberg in February.

Merck lost just one other of the five bellwether trials when a jury awarded Florida resident Shirley Boles \$8 million. The judge later cut that sum to \$1.5 million.

Merck won two other trials in a New Jersey state court over jaw injuries plaintiffs blamed Fosamax for.

At Monday's hearing, Timothy O'Brien, a plaintiffs' lawyer with Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, said that plaintiffs' law firms had until January 13 to signify their intent to participate in the settlement process.

Plaintiffs have until March 31 to opt-out of the settlement, the Merck lawyer, Strain, of law firm Venable said after Monday's hearing. He said Merck has until May 15 to decide whether or not it will go forward with the deal.

Merck said in a statement that the settlement does not cover the 4,115 lawsuits the company continues to face by people claiming to have sustained femur fractures or other bone injuries due to taking Fosamax.

The case is In Re Fosamax Products Liability Litigation, U.S. District Court, Southern District of New York, No. 06-md-01789.

(Editing by Jan Paschal and Grant McCool)

FILED UNDER: HEALTH

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