

Rising Star: Mayer Brown's Andrew Calica

By **Caroline Simson**

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Mayer Brown LLP partner Andrew Calica has secured a string of game-changing victories in litigation implicating branded-drug maker UCB Inc. over alleged neurological disorders caused by its heartburn drug Reglan, landing him a spot among Law360's Rising Stars list of top attorneys under 40.

In 2009, when the U.S. Food and Drug Administration added a black box warning cautioning users of metoclopramide — the drug contained in Reglan — that usage exceeding 12 weeks could cause neurological problems, Calica was on a team of Mayer Brown attorneys who were already representing UCB. After the FDA's decision, work for UCB suddenly became a priority in a big way.

"Overnight it changed from a few cases to thousands of cases, and it became national litigation," Calica, 36, said. "It became much more of the focus of what I did."

Since then, he has become a primary architect of the firm's national strategy for the estimated 8,000 suits implicating UCB, helping the firm's product liability practice in New York blossom from a non-entity to one with a nationally recognized reputation. Around 4,600 of the Reglan cases are still active today.

The legal issues raised in the litigation have drawn national attention, particularly the hotly contested theory of innovator liability. The theory, which contends that brand-name drug manufacturers can be held responsible for copycat products because they designed the drug and its label, is one of overwhelming importance to the pharmaceutical industry. Its interpretation by various state courts — many of which Calica has helped sway — puts billions of dollars in potential liability on the line.

Two of Calica's head-turning wins came in 2014. The first came in February in *Lashley v. Pfizer Inc. et al.*, when a Fifth Circuit panel accepted a new ground for holding UCB immune from suit: because the manufacturer's product was accompanied by an FDA-approved label, it was entitled to a presumption against liability in failure-to-warn product liability cases.



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A few months later, the Iowa Supreme Court ruled in *Huck v. Wyeth Inc.* that not all state tort law claims against generics makers are preempted by federal law. Mayer Brown represented UCB subsidiary Schwarz Pharma Inc. in both cases.

With the ruling, the Iowa court became the first state supreme court to reject innovator liability, making the opinion "persuasive authority" for other state supreme courts to follow suit, Calica said.

Calica and his fellow partner Hank Bullock have never lost an appeal on the issue. Other victories over the last 16 months have included appeals in *Eckhardt v. Qualitest Pharmaceuticals Inc.*, a Fifth Circuit appeal applying Texas law in May 2014, and *Strayhorn v. Wyeth Pharmaceuticals Inc.*, a Sixth Circuit appeal applying Tennessee law in December 2013.

Following the success of the *Reglan* litigation, it's not surprising that other pharmaceutical companies have also enlisted his expertise. Eli Lilly and Co., along two other branded manufacturers, engaged him and Bullock to represent them in a Sixth Circuit appeal involving the painkillers *Darvocet* and *Darvon*.

The case was consolidated in multidistrict litigation that was shot down by the federal appeals court in June, when it concluded that the plaintiffs hadn't adequately pled that the U.S. Supreme Court's *Bartlett* decision allowed their state design-defect claims over allegedly misbranded drugs.

Calica, who made partner in November, said that there's always been an entrepreneurial spirit that's dominated his past 11 years at the firm, which is partially why he's spent his entire legal career at Mayer Brown. The opportunity to build the practice — rather than to come into something that was already well-established — made the work of securing more and more important clients, and litigating suits with implications for pharmaceutical companies from coast to coast, that much more exciting.

His practice over the last decade has been particularly interesting because even as a young lawyer, he said, he was able to not only manage an individual case all the way through but also to work on a larger scale as well.

He said the firm has always encouraged a welcoming atmosphere when it comes to its younger lawyers putting in their two cents during work on a case.

"No one has a monopoly on the best idea," he said. "You're encouraged to contribute, and that gets you to thinking about all aspects of the case, not just whatever portion you're focused on or assigned [to]. And that's exciting."

--Editing by Jeremy Barker.