

## James W. Matthews

### Partner

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James Matthews handles complex business disputes for a variety of businesses, including manufacturers of pharmaceutical products and medical devices, frequently representing life sciences and technology companies in commercial disputes pending in courts and before arbitrators throughout the country. In addition to representing these businesses in litigation, he is a trusted advisor to them in connection with the litigation risks associated with their businesses.

In the past 20 years, James has acted as lead counsel to generic drug manufacturers and pharmaceutical distributors in some of the most complex and multifaceted litigations pending in courts across the United States. He has also represented these companies as both defendant and plaintiff in commercial disputes, resulting in defense verdicts and plaintiffs' verdicts and settlements collectively in excess of hundreds of millions of dollars.

Prior to joining Foley, James was a partner at another firm. He also was appointed Special Assistant District Attorney for Middlesex County for an interim period. For two years after law school, he clerked for The Honorable John E. Conway, U.S. District Judge for the District of New Mexico.

James is a member of the Commercial Litigation Practice Group and co-chair of the Pharmaceutical and Other Regulated Drugs Area of Focus within the firm's Health Care & Life Sciences Sector.

For more than twenty years, James Matthews has tried complex, high-profile cases on behalf of clients in difficult circumstances. He has appeared in state and federal courts around the country, tried cases before judges and juries for plaintiffs and defendants, and won verdicts on behalf of both. He past trials have included claims under the False Claims Act, federal and state antitrust statutes, and a variety of state unfair competition acts, as well as claims for fraud and breach of contract. In 2009, he obtained the "biggest verdict of the year" in Massachusetts in a patent infringement case. Six months later he "won" a mistrial when an Alabama jury was unable to agree that the pharmaceutical manufacturer he represented (Watson Pharmaceuticals) had defrauded the state of Alabama by submitting fake "Average Wholesale Prices" to

Alabama Medicaid. Two years later, James won a unanimous defense verdict in another “AWP” case when a Kentucky jury rejected Kentucky’s identical claims against Watson. In 2015, he took a “pay-for-delay” antitrust cases to trial, representing generic pharma manufacturer Apotex Corp. against industry behemoths Cephalon, Teva, Mylan and Dr. Reddy’s and obtaining — after his closing argument — nine figures in settlements. In 2022 and 2023, James defended Andia, Inc. in two trials accusing it of fomenting and benefitting from the country’s “opioid crisis.” James honed his trial skills as a Special Assistant District Attorney in the Cambridge (Massachusetts) District Court, where he learned that attention to detail was second only to developing strong themes and delivering a clarifying narrative in the toolbox of successful trial lawyers.

## Representative Experience

- Lead national counsel for an international generic drug manufacturer in the generic drug antitrust cases coordinated in the Eastern District of Pennsylvania. Responsible for coordinating claims under federal and state antitrust laws brought by the Attorneys General of most states and purchasers and payors of generic drugs, including Medicaid agencies, wholesalers and distributors, pharmacies, insurers, and consumers.
- Lead national counsel to several drug manufacturers and a distributor of pharmaceutical products in hundreds of cases pending throughout the United States alleging the creation of a public nuisance arising from the sale and distribution of opioid products. Lead trial counsel for Andia, Inc. in New York state court jury trial and San Francisco federal court bench trial. Coverage of this engagement can be found at: <https://www.law360.com/articles/1410255/-overheated-hyperbole-opioid-atty-gets-fiery-in-sf-trial>
- Lead national counsel for a NYSE-listed generic drug manufacturer and its affiliates in government enforcement actions pending in state and federal courts throughout the country. Responsible for coordinating the defense of civil actions under the Federal False Claims Act and analogous state statutes pending in federal court and in state courts in Alabama, Alaska, Idaho, Florida, Hawaii, Illinois, Kansas, Kentucky, Louisiana, Massachusetts, Mississippi, Missouri, New York, Oklahoma, South Carolina, Texas, Utah, and Wisconsin.
- Lead counsel for international generic drug manufacturer in prosecution “pay-for-delay” antitrust action against brand manufacturer and several generic manufacturers, recovering settlements collectively in excess of US \$150m on eve of submitting claims to jury following multi-week trial.
- Lead counsel for international generic drug manufacturer in successful arbitration of complex commercial dispute that injured manufacturer’s reputation in significant government funded health care market.
- Obtained a US \$15.7m patent infringement verdict for NYSE-listed medical device manufacturer, following a seven-day jury trial and two days of deliberations. (This verdict is listed as #1 by *Massachusetts Lawyers Weekly* in “Top Verdicts of 2009.”)
- Obtained summary judgment for publicly traded generic drug manufacturer in a claim for breach of contract and unfair trade practices where plaintiffs sought recovery of actual damages equal to US

\$60m; successfully defended appeal.

- Represented a NYSE-listed medical device manufacturer in three-week arbitration, obtained US \$30m award on behalf of client.
- Represented a generic drug manufacturer in antitrust action resulting from defendants' attempted enforcement of invalid and unenforceable patent; obtained settlement resulting in client reporting US \$100m gain in publicly filed financial statements.
- Represented venture capital firm in successful defense of efforts to obtain control of company from entrenched founders/managers.
- Obtained substantial judgment for internet search engine in multi-day arbitration claiming right to purchase-price adjustment in connection with corporate acquisition.
- Represented developer in breach of contract and unfair trade practices action, obtained order dismissing counterclaims, and obtained multi-million dollar settlement for client on first day of scheduled trial.

## Awards and Recognition

- *The Best Lawyers in America*® in the field of Commercial Litigation (2023)
- Peer Review Rated as AV® Preeminent™, the highest performance rating in Martindale-Hubbell's peer review rating system
- *The Legal 500* for Health Care – Life Sciences
- *Massachusetts Super Lawyers*® (2006, 2008-2013)

## Affiliations

- Member of the Massachusetts Bar Association
- Member of the American and Boston Bar Associations' Health Care Law, Litigation, and Business Law Sections
- Member of the Defense Research Institute and its Drug and Medical Devices, Medical and Health Care Law, Construction Law, and ADR Sections
- Elected to membership in the International Association of Defense Counsel, an invitation-only membership comprised of the world's leading corporate and insurance lawyers and insurance executives

## Presentations and Publications

- James is a frequent speaker on topics covering enterprise risk management; litigation prevention, assessment, and management; arbitration of complex business disputes; and depositions.

## Sectors

- [Health Care & Life Sciences](#)
- [Pharmaceuticals](#)
- [Racial Justice & Equity](#)

## Practice Areas

- [Antitrust & Competition](#)
- [Chemical, Biotechnology & Pharmaceutical](#)
- [Commercial Litigation](#)
- [False Claims Act](#)
- [Litigation](#)
- [State Attorneys General](#)

## Education

- University of Pennsylvania Law School (J.D., cum laude, 1990)
- Bennington College (B.A., 1983)

## Admissions

- Massachusetts