

Skilled in the Art: Desmarais and McCarter Guide Glaxo to \$1.25 Billion Settlement With Gilead

By Scott Graham

GlaxoSmithKline majority-owned **ViiV Healthcare** has settled a patent suit against **Gilead Sciences** over HIV medicine for a whopping \$1.25 billion, plus royalties worth many hundreds of millions more.

Researchers from GSK and Japan's **Shionogi & Co.** in the early 2000s developed and patented a novel chemical "scaffold" that they say laid the foundation for a new generation of integrase inhibitors. They accused Gilead of borrowing that scaffolding when it developed Bictegravir, a component of its HIV treatment **Biktarvy**.

GSK owns 73 percent of ViiV Healthcare. Shionogi owns 10 percent and **Pfizer** 12 percent. They will share proportionally the upfront payment of \$1.25 billion and a 3% ongoing royalty on U.S. sales of Biktarvy and any future drugs containing Bictegravir until ViiV's patent expires in 2027. Biktarvy had sales of \$6.09 billion in 2020, according to a [GSK news release](#).

ViiV Healthcare v. Gilead Sciences had been scheduled for trial last month before **U.S. District Judge Colm Connolly**, then was put over until May after Gilead asked for a continuance based on COVID risks. The settlement ends the Delaware litigation, plus cases pending in the U.K., France, Ireland, Germany, Japan, Korea, Australia and Canada.



John Desmarais

(Photo: Jason Dohy/ALM)

Desmarais and **McCarter & English** represented ViiV. Desmarais has been adding life sciences talent in recent years, and partners **Todd Krause**, who joined the firm from **Sidley Austin** in 2018, and **Lindsey Miller**, who arrived from **Jones Day** in 2014, were among those joining firm founder **John Desmarais** and many others on ViiV's team. "It was an honor for the firm to play a lead role in this historic case," John Desmarais said in a written statement.