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JOSEPH R. SAVERI

JOSEPH SAVERI LAW FIRM, LLP
 SAN FRANCISCO
 LITIGATION

Joseph R. Saveri has been a leader in the plaintiffs' antitrust practice for long enough that he and his eponymous firm have pioneered new types of litigation and proceedings.

It was a case he filed in San Diego in August 2000 that, along with several others, resulted in the California Supreme Court's May 2015 decision allowing lawsuits against so-called "reverse payment" or "pay-for-delay" agreements among drugmakers to allegedly postpone entry of generic drugs on the market.

He described reverse payments as "a bribe or a payment from the companies that are in the market to the companies that want to get in the market to stay out of the market."

"There was a lot of uncertainty about the cases 20 years ago," Saveri said.

But this August, he and co-counsel won final approval of a \$30 million settlement with Allergan for end-payer consumers of the company's Restasis dry-eye drops. *In re Restasis*

(*Cyclosporine Ophthalmic Emulsion*) *Antitrust Litigation*, 1:18-md-02819 (E.D.N.Y., filed July 31, 2018).

Another type of case Saveri and his firm pioneered is "no-poach" class actions that accuse competitors in a market of agreeing among themselves not to solicit or hire each other's employees, depressing pay and mobility for those employees.

He is interim co-lead counsel in a case accusing large chains of outpatient and ambulatory surgery clinics of having a no-poach agreement covering their senior-level employees. In September, his side largely defeated motions to dismiss. *In re Outpatient Medical Center Employee Antitrust Litigation*, 1:21-cv-00305 (N.D. Ill., filed Jan. 19, 2021).

The Department of Justice has also indicted several of the companies.

"I believe one of the consequences of our successes in the [no-poach] civil cases is the Department of Justice has started to pay particular attention

to these types of cases," he said. Other plaintiffs' attorneys have, too. "So I spawned a cottage industry of these cases."

On the procedural side, Saveri and his firm have been among the first plaintiffs' counsel to push for dayslong, trial-like evidentiary hearings on class certification. The hearing in *Restasis* took a week.

"We benefit from the opportunity to make our case," he said. "We've been doing it more and more. I think that's a trend that will continue."

Right now, Saveri is working on a couple of cases he can't yet discuss dealing with intellectual property and emerging technology markets. "I think there's going to be a number of cases involving things like artificial intelligence or machine learning," he said. "It's going to be an interesting area over the next several years."

— DON DEBENEDICTIS