

Court Orders Gilead to Pay Attorneys' Fees and Expenses to Shareholders, Finding Corporation Engaged in "Glaringly Egregious" Conduct

Shareholders had been forced to pursue actions in California and Delaware courts after Gilead refused to produce internal records relating to alleged improper conduct
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Gilead shareholders scored a major victory yesterday when a Delaware court ordered the corporation to pay approximately \$1.76 million in attorneys' fees and expenses, after they were forced to pursue lawsuits to obtain access to internal records relating to Gilead's development and marketing of AIDS drugs and possible anticompetitive conduct. A copy of the Court's order is attached.

Cotchett, Pitre & McCarthy, along with its co-counsel, Bottini and Bottini, represented a Gilead shareholder who requested access to Gilead's records under California and Delaware "inspection" statutes. These statutes, which have existed for over a century, permit a shareholder to inspect certain corporate "books and records" for many purposes, including to determine if improper conduct has occurred.

However, Gilead rejected the inspection requests. The Cotchett and Bottini firms then filed an action in California, where Gilead is headquartered, and working with other counsel and shareholders, filed a second action in Delaware, where Gilead is incorporated.

Yesterday, in the Delaware action, the Court chastised Gilead's refusal to produce records to its shareholders and taking "overly aggressive" positions meant to shut down investigations into allegations of improper conduct regarding its development and marketing of drugs to treat AIDS. In forcing its own shareholders to retain counsel and bring the case to trial, the Court held that Gilead's conduct was "glaringly egregious" and amounted to "bad faith."

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Practice Areas

Securities / Financial Fraud

Shareholder Rights / Corporate Governance

COURT ORDERS GILEAD TO PAY ATTORNEYS' FEES AND EXPENSES TO SHAREHOLDERS, FINDING CORPORATION ENGAGED IN "GLARINGLY EGREGIOUS" CONDUCT

Mark Molumphy, an attorney at Cotchett, Pitre & McCarthy, lauded the order and stated, *"This is an important victory for shareholders and sends a strong message not only to Gilead but any other corporation trying to deter legitimate inspection requests. Over the past few years, corporate management and their outside advisors have become increasingly aggressive in trying to prevent shareholders from accessing corporate records. With this decision, and others like it in California, the pendulum seems to be swinging the other way to protect these vital shareholder rights."*

Tyson Redenbarger, who led Cotchett Pitre's trial team in Delaware, stated, *"Gilead's conduct here was outrageous, requiring shareholders to travel across the country and pursue a case to trial just to obtain access to records. The Court's decision will hopefully deter similar efforts by other corporations in the future."*

Frank Bottini, with Bottini and Bottini, added, *"The Court's Order noted that Gilead's conduct "epitomizes a trend" by corporate management to made inspection requests difficult for shareholders. The opposite should be true. As the true owners of a corporation, shareholders' rights need to be vigorously protected."*