Katten Litigation Team Wins Reversal and Remand for a New Trial for Pharmaceutical Executive

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A Katten Litigation team, consisting of attorneys Scott Resnik, Michael Rosensaft and Rebecca Kinburn, won a reversal and remand for a new trial from the US Court of Appeals for the Second Circuit for a former pharmaceutical executive convicted of fraudulently selling imported drugs without FDA approval. During trial, the defendant put forward an advice of counsel defense asserting that he believed his company's business model was lawful because it had been reviewed and approved by two outside attorneys. However, the trial court ruled that the defendant could not testify at trial about the advice he received from one of those attorneys because it was unduly prejudicial to the government. The Katten trial team, nonetheless, successfully obtained acquittals on the most serious counts in the indictment. On appeal, the US Court of Appeals for the Second Circuit vacated the convictions on all of the remaining counts and ordered a new trial. The Second Circuit's ruling "vindicates the important principle that a defendant is entitled to testify to state-of-mind evidence without calling a corroborating witness," Scott said. "My client truly believes he will be able to succeed at the retrial, now that he'll be able to present his whole defense and all the evidence that support the decisions he made on how to handle his business."

CONTACTS

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