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Pete Marketos and Josh Russ of Reese Marketos

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You served as co-lead trial counsel for whistleblowers in *United States ex rel. Penelow v. Janssen Products, LP*, in which a federal jury in New Jersey found Janssen liable in June 2024 for submitting nearly 160,000 false claims by improperly promoting HIV medications. In March 2025, Janssen was ordered to pay \$1.64 billion, the largest False Claims Act civil judgment in history. Tell us about your trial strategy.

Our trial strategy was straightforward: We put together a team of Reese Marketos attorneys who relentlessly focused on exposing Janssen's nationwide scheme to increase ineligible prescriptions for its HIV drugs by misleading doctors about the uses and side effects of those medications.

We knew the trial was going to be complex and potentially historic. We had to show that the government had paid hundreds of millions of dollars for prescriptions that were not eligible for reimbursement. We benefited from the extraordinary work of Berger Montague litigators who assembled testimony from seven former Janssen sales representatives and high-level managers and multiple clinical, marketing, data, statistical, and damages expert opinions.

Like with all trials, successful execution took intense preparation and countless hours of hard work. We knew that mastery of the facts forms the foundation for building credibility and trust in the courtroom. We leveraged our courtroom advocacy before a federal jury and district court judge in Trenton, N.J., and we dedicated massive resources to post-trial briefing to ensure a judgment that reflected the nature, length, extent, and gravity of Janssen's misconduct.

Tell us about some of the challenges you faced in *U.S. ex rel. Penelow v. Janssen Products, LP* and how you overcame them.

It can be challenging to prove a nationwide scheme. This was not a trial about a single contract or an isolated accident. In addition to explaining medical concepts pertaining to HIV, virology, and FDA label approval, we had to show that the company's misconduct spanned the country and occurred across many years.

We had to show the jury what happened when a Janssen sales rep sat in a doctor's office and pitched a drug for an unapproved and potentially

dangerous use. We had to show pointedly that the company's fraudulent marketing worked and changed prescribers' behaviors. From a courtroom presentation perspective, we had to carefully order our witnesses to set out the facts. We interspersed whistleblowers, corporate insiders, adverse executives, and experts. And we faced a talented set of opposing counsel representing a determined adversary. We had to win each day.

Take us back. When did you first know you wanted to be a trial lawyer?

Marketos: My interest in trial advocacy specifically developed in law school, where I learned that the ability to master facts and law, and then to articulate and persuade a jury, is less a talent than a privilege in our remarkable justice system. The relentless pursuit of justice is even more fulfilling when one is actually empowered to obtain it.

Russ: My grandfather was a revered small-town prosecutor. My dad also became a trial attorney. My father is now a judge in my hometown. Growing up, my dad would tell trial stories at the breakfast table and often made my siblings and me "present" our cases to him when we had arguments. Nurture and nature conspired to make me a trial attorney early in life.

What are the major keys to winning over a jury or a judge?

Marketos: Preparation, intellectual curiosity, tenacity, humility, authenticity ... and preparation.

Russ: Honesty and sincerity must be your North Star. Judges and juries scrutinize credibility, and just believing in your case is not sufficient. True credibility requires a mastery of the record. require wins, not avoided losses.

What is the best advice you give young trial lawyers?

Marketos: The privilege of pursuing justice for others can never be taken for granted.

Russ: Humility, empathy, professionalism, and integrity are superpowers. Ground your success in preparation, learn from attorneys you admire, and treat everyone with respect.