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LITIGATION DEPARTMENT OF THE YEAR FINALIST

Williams & Connolly

## LITIGATION DEPARTMENT of the YEAR



**THIS IS THE FOURTH TIME** we've chosen a Litigation Department of the Year, a now biennial undertaking that has acquired a life of its own. We invited the Am Law 200 firms to compete for the overall title as well as laurels in one of three specialties: Intellectual Property, Labor and Employment, and Product Liability.

We asked the firms to report on their litigation records between January 1, 2006, and June 30, 2007. Specifically, we asked for no more than five examples of "significant achievements" in six categories, ranging from pretrial work to appellate to pro bono. The responses filled two dozen crates and have occupied most of our waking hours since the August 1 deadline.

We read them all, the clear and the confusing, the witty and the turgid. We whittled down the entries to a short list of finalists and then invited each to come to New York to plead their case. Oral argument, as it were, helped some firms. Others should have stayed home. Also, once again, we asked for client references. Note to law firms: Next time, check to make sure these folks actually think as highly of your work as you believe they do.

In the end, our four panels of judges concluded that we were most akin to admissions committees at very select colleges: At a certain point, you get used to rejecting high school valedictorians. This was a remarkably close competition. In our special report we present the four winners, the runners-up, and, in the Department of the Year contest, 18 more who merited special attention. Congratulations! And let the appeals begin.

—ARIC PRESS

PHOTOGRAPHS BY MIKE MCGREGOR

# Do You Believe in Miracles?

It's a law firm, not a cult. But for satisfied clients—and some opponents—Williams & Connolly has become an article of faith. And their record has been divine. They put Vioxx to rest, stood up for Vinson & Elkins, and rescued a faltering IP case at the Supreme Court.

By Alison Frankel

**LAST DECEMBER**, when the four judges who together oversaw most of the Vioxx litigation told Merck & Co., Inc., and the plaintiffs lawyers that it was time for them to begin negotiating a settlement, Merck had an important decision to make. Who would lead talks on Merck's behalf? The pharmaceutical company had an enviable roster of firms working on Vioxx-related litigation: longtime counsel Hughes Hubbard & Reed, which served as Merck's spokesman throughout the litigation; class action specialists at O'Melveny & Myers; trial lawyers from Dechert and Bartlit Beck Herman Palenchar & Scott. But Merck chose Douglas Marvin of Williams & Connolly, an unassuming man who'd been the company's co-lead national counsel—but had stayed out of the public glare of the Vioxx litigation. "Doug's an excellent lawyer and strategist," says Merck general counsel Bruce Kuhlik. "He's very level-headed, very good at bringing people together."

The \$4.85 billion Vioxx settlement, say two of the plaintiffs lawyers on the deal, would not have been accomplished had it not been for Marvin. "He is one of the finest negotiators I've come across," says lead plaintiffs negotiator Russ Herman of Herman, Herman, Katz & Cotlar, who met face-to-face with Marvin more than three dozen times during the ten months of talks. "There are a number of lawyers at the top of the profession who have the negotiating skills, litigation skills. . . . Few exude the ability and temperament to create an atmosphere of reliability and trust."

That's the Williams & Connolly ethos, as described most tellingly by opposing counsel in almost all of the firm's big wins over the last two years: Fight hard—very hard—but also fight fair. Williams & Connolly litigators believe in good sportsmanship. "I can't say losing was a pleasant experience, but I have

great respect for those guys," says Houston lawyer James Moriarty, who represented three Special Forces veterans claiming defamation stemming from the 1998 "Tailwind" report by CNN and *Time* magazine. The case, handled by Williams & Connolly partners Kevin Baine and Thomas Hentoff, was dismissed on summary judgment in September 2006. J. Christopher Reynolds of Gibbs & Brun represented a power company client that was ordered in an American Arbitration Association case to pay \$395 million to Williams & Connolly's client, Southaven Power, LLC. "Although they prevailed at the end of a very complex, and often bitterly contested, arbitration," says Reynolds, "I came away respecting and liking [W&C partner] Richard Cooper."

Williams & Connolly prides itself on being a lawyers' law firm. In one sense, that is literally true. Partner John Villa, who specializes in legal malpractice defense, says W&C has counseled 23 Am Law 100 firms since the beginning of 2006. It is a mark of the firm's discretion that he is willing to disclose only one such representation, in which Williams & Connolly succeeded in persuading plaintiffs lawyers to dismiss all shareholder class action claims against Vinson & Elkins in the Enron Corp. litigation. "In litigation this complex," says V&E senior partner Harry Reasoner, "I don't know anyone who's better."

But Williams & Connolly doesn't just defend lawyers from other firms. It also works with them. Sometimes that means W&C is called in by cocounsel, as in a *qui tam* suit against billionaire investor Mario Gabelli. The whistle-blower boutique of Phillips & Cohen brought the case for plaintiff Russell Taylor, alleging that Gabelli had created sham companies to obtain wireless spectrum licenses intended for minority-owned businesses. Wil-

liams & Connolly came in to work on discovery—and then persuaded the government to intervene on Taylor's behalf. The case settled soon thereafter for \$130 million and \$8 million in attorneys' fees. (Gabelli was represented by Covington & Burling and Skadden, Arps, Slate, Meagher & Flom.)

In other cases, it is Williams & Connolly bringing in cocounsel. The firm has only 212 litigators and a single office in Washington, D.C., so it has to be willing, says partner Heidi Hubbard, to work with other firms if it is to continue to attract the high-stakes matters for which W&C is known. In the 5,300-case hormone replacement therapy litigation, for instance, Williams & Connolly is national counsel for Wyeth, the lead defendant. W&C litigators have advised Wyeth on global strategy and have been in the courtroom during each of the five hormone cases tried so far, winning, most notably, a defense verdict in the first trial, which was held in U.S. district court in Arkansas in September 2006. But they haven't always been lead counsel (including in the Nevada case in which plaintiffs won a \$134.5 million verdict in October). "They're very good at finding talent at other law firms," says Wyeth general counsel Mark Lynch. "And other outside counsel love working with them."

Williams & Connolly litigators succeeded

<b>DEPARTMENT SIZE</b>	Partners:	<b>85</b>
	Associates:	<b>112</b>
	Other:	<b>15</b>
<b>DEPARTMENT AS PERCENT OF FIRM</b>		<b>94%</b>
<b>ESTIMATED PERCENT OF FIRM REVENUE 2007</b>		<b>95%</b>



in every phase of litigation in 2006 and 2007—including winning in the U.S. Supreme Court on behalf of MedImmune, Inc., in a case that established the principle that licensees can sue for patent infringement. General counsel William Bertrand, Jr., hired W&C partner John Kester after MedImmune lost at the U.S. Court of Appeals for the Federal Circuit level because he valued Kester's appellate expertise. But W&C trains its litigators to think of themselves as trial lawyers. Even its main pro bono program, in which W&C lawyers take cases from the Maryland Public Defender's office, is designed to boost trial experience. "We always have teams going out," says Villa. "When we come into a case, the unspoken message is that we're willing to try it."

Dane Butswinkas was lead partner in four

of the 30 cases and arbitrations Williams & Connolly reported trying to verdict in 2006 and 2007 (the firm's clients prevailed in 25 of them). For a subsidiary of longtime energy client The AES Corporation, Butswinkas won a defense verdict in a \$150 million ERISA stock-drop case in Indiana. In a criminal case in New Hampshire, which involved allegations that W&C's client had attempted to interfere with the 2002 Senate race, Butswinkas won an acquittal on the most serious charge of civil rights violations (the conviction on lesser charges of telephone harassment was later overturned on appeal). He represented the Republic of Uruguay in a \$700 million ICC arbitration in which a decision is pending. And he and a first-year associate represented

**From left:**  
**Heidi Hubbard,**  
**John Villa,**  
**Dane Butswinkas**

a small company called Washington Management & Development Company, Inc., which was sued for \$10 million in a bet-the-company contract dispute. Before the American Arbitration Association, they won a defense ruling and \$1 million in fees. Is there a difference, Butswinkas was asked, between a \$700 million case and a \$10 million dispute? "In their own way," he says, "they're all big."

And whether the client is Vinson & Elkins, Merck, Wyeth—or a company like Washington Management—that's the Williams & Connolly way.

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GROOMING AND MAKEUP BY MARTHA FRIEDLANDER



# WILLIAMS & CONNOLLY LLP

Williams & Connolly LLP is widely regarded as one of the premier litigation firms in the country. Founded in 1967 by legendary trial lawyer Edward Bennett Williams, the firm today has over 200 lawyers who share the commitment to excellence that is his primary legacy. Operating out of a single office in Washington, D.C., its lawyers take on "bet-the-company" civil suits and highly visible criminal cases throughout the country. They have brought their advocacy skills into courtrooms in virtually every jurisdiction, into the Supreme Court of the United States, into the halls of the Executive Branch, and onto the Senate floor.

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