

Insurance Disputes

Based on our deep experience across the spectrum of insurance disputes, Williams & Connolly understands the trends, complexities and challenges facing businesses in this ever-changing landscape. Our seasoned litigators have represented nationally recognized companies in some of the largest and most high-profile insurance litigations and arbitrations. But Williams & Connolly also understands that an ounce of prevention is worth a pound of cure, and we often advise our clients on preventing disputes before they arise.

Williams & Connolly has been helping clients navigate insurance disputes for more than four decades. We have represented companies and executives in a wide range of areas, including life settlements; class action litigation; criminal defense and government investigations; securities and financial services enforcement and litigation; premium finance and stranger originated life insurance (“STOLI”) disputes; representation of directors and officers; healthcare and false claims disputes; unlicensed insurance; and appellate litigation.

Though all cases vary and none are predictive, our experience includes:

- Representing a **leading life settlement provider** and several affiliated entities in a case concerning the sale of more than 1,000 life insurance policies to two Irish hedge funds affiliated with Ritchie Capital Management LLC, and Ritchie’s failed, first-of-its-kind securitization backed by life insurance policies.
- Representing a **Wall Street Bank** as trial counsel in multi-billion dollar litigation brought by a monoline insurer.
- Representing an **automotive retail group** in nationwide class arbitration alleging the sale of unlicensed insurance.
- Representing **CVS Health Corporation** in a *qui tam* case relating to the Company’s provision of pharmacy benefit services for Medicare Part D Plan Sponsor clients.
- Counseling a **premium finance program administrator and lender** about various issues relating to program structuring and administration.

Life Settlements

Williams & Connolly has successfully litigated many of the most significant life settlement cases in the history of the industry. These matters range from a civil enforcement action brought by the New York Attorney General regarding alleged improprieties in the bidding for life settlement policies on the secondary life insurance market, to high-stakes commercial disputes regarding the sale and securitization of life settlement policies, to class actions based on life settlement transactions, to a variety of smaller-stakes litigation and counseling matters. Williams & Connolly has deep experience with the full range of economic, underwriting, and commercial issues that arise in the life settlements industry. Though all cases vary and none are predictive, our experience includes:

- Representing a **leading life settlement provider** and several affiliated entities in a case concerning the sale of more than 1,000 life insurance policies to two Irish hedge funds affiliated with Ritchie Capital Management LLC, and Ritchie’s failed, first- of-its-kind securitization backed by life insurance policies. The case was tried in a two-week bench trial in the United States District Court for the Southern District of New York, which issued a complete defense judgment in October 2014. The judgment was affirmed by the United States Court of Appeals for the Second Circuit in December 2016.
- Representing a **leading life settlement provider** and certain of its affiliates in a civil Racketeer Influenced and Corrupt Organizations Act (“RICO”) action brought by Lavastone Capital, an AIG subsidiary. The case

concerned alleged misconduct during the course of a decade-long, multi-billion dollar series of transactions for the purchase and sale of life insurance policies. The case was tried in a two-month bench trial in the United States District Court for the Southern District of New York, and was settled, post-trial, on mutually-agreeable terms.

- Representing a **leading life settlement provider** and several of its affiliates in a civil enforcement action brought by the New York Attorney General concerning alleged improprieties in the bidding for life settlement policies on the secondary life insurance market. The case was settled on mutually-agreeable terms.
- Representing a **leading life settlement provider** and certain of its affiliates in a putative nationwide consumer class action concerning alleged improprieties in the bidding for life settlement policies on the secondary life insurance market.
- Representing a **leading life settlement provider** in various matters initiated by state insurance commissioners.

Class Action Litigation

Williams & Connolly has handled a variety of insurance-linked class actions, including:

- Representing **Caremark Rx LLC** as trial counsel in a “class action about a class action” in Alabama state court, after litigation had been ongoing for over 12 years. In 2003, plaintiffs alleged (on behalf of a 13,000-member class) that MedPartners, a predecessor entity to Caremark Rx, LLC, and AIG had misrepresented the amount of insurance available to settle a 1998 securities class action.
- Representing **CVS Health Corporation and CVS Pharmacy, Inc.** in several class actions relating to its Health Savings Pass (“HSP”) generic discount drug program. The cases potentially involve millions of CVS customers who purchased HSP-eligible medications using third-party insurance coverage.
- Representing an **insurance company** in a nationwide consumer class action arising from retail sale of credit insurance for automotive financing.
- Representing a **leading life settlement provider** and certain of its affiliates in a putative nationwide consumer class action concerning alleged improprieties in the bidding for thousands of life settlement policies on the secondary life insurance market.
- Representing two **government contractors**, one in the defense industry and the other in the information security services sector, in a multi-defendant class action seeking \$2 billion in damages for claims involving Defense Base Act insurance benefits.

Criminal Defense and Government Investigations

Williams & Connolly’s nationally recognized Criminal Defense and Government Investigations practice has represented numerous individuals and entities in insurance-related criminal and civil enforcement matters. These include:

- Representing an **international pharmaceutical company** in an active U.S. Department of Justice investigation concerning donations to so-called Co-Pay Assistance Foundations, which assist patients suffering from certain diseases with insurance co-payments for drugs that help treat those diseases.
- Representing the **President of an insurance company** in a DOJ insurance fraud investigation.

- Representing the **President of a re-insurance company** in a DOJ insurance fraud investigation involving use of offshore entities.
- Representing a **leading life settlement provider** and several of its affiliates in a civil enforcement action brought by the New York Attorney General concerning alleged improprieties in the bidding for life settlement policies on the secondary life insurance market. The case was settled on mutually-agreeable terms.
- Representing a **leading life settlement provider** in various matters initiated by state insurance commissioners.
- Representing **CEO of major health insurer** in SEC and DOJ fraud investigations.
- Representing an **attorney** who was the target of an insurance fraud investigation.
- Representing an **owner of an international company** at trial in federal court on a seven-count indictment based on alleged property & casualty insurance fraud.
- Representing a **pharmacy chain** in a civil investigation regarding alleged violations of the False Claims Act and Anti-Kickback Statute in connection with retail promotions allegedly targeting Medicare Part D and Medicaid beneficiaries.
- Representing a **healthcare company** in an investigation regarding reporting of Medicare Part D prescription costs, and, in particular, post-point-of-sale payments to or from pharmacies.
- Representing a leading **healthcare company** in an investigation regarding the company's rebate contracts with manufacturers for drugs dispensed to Medicare Part D beneficiaries, services fees provided under those contracts, and the reporting of those rebates and service fees by Part D Plan Sponsors.
- Representing a **healthcare company** in an investigation regarding alleged kickbacks from pharmaceutical manufacturers for placement of certain drugs on Medicare Part D formularies.

Securities and Financial Services Enforcement and Litigation

Insurance disputes often involve significant securities and financial services components, two areas in which Williams & Connolly has vast experience. That experience includes representing public and private companies and individuals in investigations and litigation involving a wide range of insurance, securities, bank, financial and accounting fraud matters, including investigations initiated by the Department of Justice, the Securities and Exchange Commission, state attorneys general, state insurance commissioners, and various self-regulatory authorities, among others—both as standalone matters and as part of larger representations involving private civil litigation and criminal investigations. *Law360* named Williams & Connolly among the publication's 2016 "Securities Groups of the Year." Some of the firm's extensive experience in this area includes the following:

- Representing a **major accounting firm** in securities and other civil litigation brought by the New York State Insurance Department related to the collapse of an insurance company.
- Representing **national investment banks and international banks** against insurance carriers in securities and other litigation related to residential mortgage-backed securities.
- Representing **insurance-industry, financial services and other clients** in Financial Industry Regulatory Authority ("FINRA"), American Arbitration Association ("AAA"), International Institute for Conflict Prevention & Resolution ("CPR"), International Chamber of Commerce ("ICC"), and other arbitrations.

Premium Finance/STOLI

Williams & Connolly has long been on the leading edge of premium finance/STOLI litigation. We have represented both premium finance lenders and program administrators on a full range of issues relating to their business. This includes:

- Analyzing premium finance programs for STOLI risk.
- Representing a **leading premium financing program administrator** in a dispute with a global lender that funds premium finance programs.
- Representing a **leading premium financing program administrator** in claims brought by numerous insurance companies challenging the legitimacy of thousands of life insurance policies financed and subsequently sold on the secondary market.
- Representing a **leading premium financing program administrator** in claims brought by an insurance advisor regarding the financing of \$30 million in life insurance proceeds.
- Representing a **leading premium financing program administrator** in claims brought by representative of an estate over the financing and sale of a \$15 million policy.
- Preparing witness testimony before the Senate Special Committee on Aging concerning STOLI issues.

Directors & Officers

Williams & Connolly has established a formidable record defending the business judgments of directors and officers at publicly-traded and privately-held corporations and financial institutions. These cases frequently implicate D&O insurance policies. The Firm's cases span the full spectrum from shareholder disputes to government enforcement actions, among many other cases that implicate D&O insurance issues. Representative examples include:

- Defending **directors & officers affiliated with nearly a dozen failed banks** in connection with FDIC receivership litigation asserting claims of breach of fiduciary duty, negligence, and gross negligence aimed at recovering under D&O insurance policies as well as D&O personal assets.
- Representing **current and former senior executives at major financial institutions** in response to federal investigations into sales and lending practices.
- Defending **former New York Stock Exchange Chairman and CEO Dick Grasso** in compensation battle against former New York Attorney General Eliot Spitzer, which The Wall Street Journal described as "one of the biggest defeats suffered by authorities in the past decade in white collar civil and criminal cases aimed at alleged financial improprieties."

Healthcare and False Claims Disputes

Williams & Connolly has extensive experience representing companies and individuals throughout the healthcare delivery chain in government investigations and commercial and false claims litigation. Many of our matters implicate insurance and insurance providers, in particular interactions with government health insurance programs such as Medicare and Medicaid. Representative matters include:

- Representing **Omnicare, Inc.**, in *qui tam* litigation alleging that the company failed to collect debt from skilled nursing facilities for pharmaceuticals provided to Medicare Part A beneficiaries in order to obtain the Medicare Part D business of those facilities.

- Representing **Coram LLC**, a provider of home infusion and specialty pharmaceutical distribution services, in *qui tam* litigation relating to Medicare Part B reimbursement for two immune globulin products.
- Representing **Liberty Medical Supply Inc.** in *qui tam* litigation alleging that the company failed to report and return overpayments by Medicare Part D plans and state Medicaid agencies.
- Representing **CVS Health Corporation** in a *qui tam* case relating to the Company's provision of pharmacy benefit services for Medicare Part D Plan Sponsor clients.
- Representing **CVS Health Corporation and CVS Pharmacy, Inc.** in several class actions relating to its Health Savings Pass generic discount drug program. The cases potentially involve millions of CVS customers who purchased HSP-eligible medications using third-party insurance coverage.
- Representing **Steward Health Care Systems, Inc.** in challenging anticompetitive conduct aimed at preventing Steward from entering health care and insurance markets in Rhode Island.
- Representing **health insurance carriers** in disputes related to state Medicaid managed-care contracts.
- Representing a **health insurance carrier** in indemnification dispute related to allegedly inaccurate Medicare Part D billing.
- Representing a **pharmacy chain** in a civil investigation regarding alleged violations of the False Claims Act and Anti-Kickback Statute in connection with retail promotions allegedly targeting Medicare Part D and Medicaid beneficiaries.
- Representing a **healthcare company** in an investigation regarding reporting of Medicare Part D prescription costs, and, in particular, post-point-of-sale payments to or from pharmacies.
- Representing a **healthcare company** in an investigation regarding the company's rebate contracts with manufacturers for drugs dispensed to Medicare Part D beneficiaries, services fees provided under those contracts, and the reporting of those rebates and service fees by Part D Plan Sponsors.
- Representing a **healthcare company** in an investigation regarding alleged kickbacks from pharmaceutical manufacturers for placement of certain drugs on Medicare Part D formularies.
- Representing **Kentucky Spirit Health Plan, Inc.**, a subsidiary of Centene Corporation, in a Medicaid managed-care contract dispute in Kentucky.

Other Insurance-Related Litigation

Williams & Connolly's other insurance-related litigation experience includes the following matters:

- Representing an **automotive finance and insurance company** in a consumer class action claiming that Guaranteed Asset Protection (GAP) constitutes unlicensed insurance under state law. The court granted summary judgment in favor of the firm's client.
- Representing several different **automotive companies** in consumer class actions filed in courts around the United States asserting that window etching products constitute unlicensed insurance. Many courts in these cases granted dispositive motions in favor of the firm's clients.
- Representing a **Wall Street Bank** as trial counsel in multi-billion litigation brought by monoline insurer seeking to rescind insurance policies for residential mortgage-backed securities.

- Defending a leading **global professional services and risk management company** in the Southern District of New York over allegations that it violated ERISA in advising an investment committee regarding its pension plan.

Appellate

Williams & Connolly's top-ranked Supreme Court and appellate litigation practice has handled scores of cases before the U.S. Supreme Court, federal circuit courts, and state appeals courts, including cases involving insurance-industry participants. Recent insurance-related matters include:

- *Ritchie Risk-Linked Strategies v. Coventry First LLC*, 2016 WL 7177672 (2d Cir. 2016) (successful representation of life settlements provider).
- *American Insurance Association & National Association of Mutual Insurance Companies v. U.S. Department of Housing & Urban Development*, No. 14-5321 (D.C. Cir. 2015) (representation of the National Association of Mutual Insurance Companies and the American Insurance Association in a challenge to federal regulations).
- *Fidelity Warranty Services v. Firststate Insurance Holdings*, 74 So.3d 506 (Fla. Dist. Ct. App. 2011) (representation of automotive finance and insurance company).
- Representation of an **insurance broker** after a guilty verdict in a successful appeal to the U.S. Court of Appeals for the Fourth Circuit.