

## Products Liability, Torts, and Medicine

*“The Products Liability group at Williams & Connolly uses creativity, not size . . . to represent some of the biggest names in pharmaceuticals and medical devices,”* including Merck, Medtronic, and Pfizer. – *The National Law Journal*, 2017 D.C. Litigation Department of the Year – Products Liability

*“They are particularly strong in the mass torts area and have a vast amount of experience helping companies to work through litigation.”* – *Chambers*, Ranked Band 1 Product Liability & Mass Torts (Nationwide) 2010-2019

Commended for its *“stellar roster of practitioners.”* – *LMG Life Sciences*, Rated as “Highly Recommended,” 2012-2018

Such honors flow from years of experience handling personal injury litigation arising from pharmaceutical products, medical devices, consumer products, and equipment, as well as from chemical and transportation exposures, accidents, and explosions. Williams & Connolly also has a long history of defending doctors and medical institutions in malpractice litigation.

### Pharmaceutical and Medical Device Companies

In product liability litigation, we represent pharmaceutical and medical device makers and distributors in all aspects of national and international litigation as: (a) lead trial counsel, (b) national or global coordinating counsel, (c) resolution counsel, and (d) appellate counsel. Our experience in the area stretches back several decades to some of the earliest large-scale product litigation, including:

- The breast implants litigation, in which Williams & Connolly represented General Electric, a bulk supplier of silicone raw materials, in actions involving more than 12,000 plaintiffs. The firm won summary judgment for GE in the federal MDL, and GE paid nothing in judgments or settlements.
- The Norplant contraceptive litigation, in which the firm represented American Home Products (“AHP”) in actions involving more than 50,000 plaintiffs. Williams & Connolly won summary judgment for AHP in the first set of federal MDL bellwether cases, achieved defense victories in all four state court trials, and settled the remaining cases on very favorable terms.

Building on that early work, our practice has expanded to represent many pharmaceutical and device companies in federal MDLs, state coordinated proceedings, and multi-plaintiff actions, including, in recent years: Bayer, Genentech, Pfizer, Merck, Wyeth, AstraZeneca and Endo Pharmaceuticals. As *Chambers USA* observed recently, the firm “draws praise for its ability to handle the strategic management of mass case dockets in class action or multidistrict litigation, while at the same time taking the lead on many of these cases at trial or motions.”

The following examples of the firm’s recent work for pharmaceutical and device companies demonstrate our experience in all aspects of product liability litigation:

- **Raptiva/Genentech** – Williams & Connolly served as national counsel for Genentech in this litigation concerning Raptiva, a treatment for plaque psoriasis that was voluntarily withdrawn from the market in April 2009. In the ten (10) bellwether cases selected for trial in the California coordinated proceeding, the firm won summary judgment in seven (7) cases and voluntary dismissal of another case. The firm also won dismissals in single-plaintiff actions pending in federal courts, and successfully defended those dismissals on appeal. These rulings led to an overall settlement of the litigation on favorable terms for Genentech in 2012.
- **Prempro/Wyeth** – Williams & Connolly has worked on all aspects of this long-running litigation involving more than 10,000 plaintiffs. Highlights of the firm’s work include: co-lead trial counsel in the first two MDL

bellwether trials, which resulted in defense verdicts; co-lead trial counsel in the first trial to a defense verdict in the Philadelphia Court of Common Pleas (“PCCP”); lead counsel in defeating class certification in the MDL proceeding, Florida, West Virginia, Pennsylvania and Alabama; legal briefing counsel (pretrial and trial motions, jury instructions, etc.) in all MDL trials, with six (6) out of seven (7) resulting in defense verdicts; appellate counsel in four (4) appeals to the Eighth Circuit and appeals to the Supreme Courts of Minnesota, Nevada and West Virginia; and lead counsel in several cases remanded from the MDL in which pretrial victories were secured on statute of limitations and adequacy of the warning.

• **Medical Device Maker/Radiation Unit** – The firm has represented a large medical device company in connection with multiple lawsuits filed in the U.S. and Costa Rica, alleging that a radiation unit used to treat cancer patients in Costa Rica malfunctioned and caused serious personal injury to over a hundred patients. Courts in both Maryland and Connecticut granted our client's motion to dismiss all claims on forum non conveniens grounds; the Maryland plaintiffs appealed the ruling, and the appellate court affirmed.

• **Vioxx/Merck** – In this litigation involving more than 60,000 claims arising from the withdrawal from the market of the pain medicine Vioxx in 2004, Merck selected Williams & Connolly as co-national coordinating counsel. After 15 trials involving the firm and other defense firms, Williams & Connolly took the lead in developing and negotiating a settlement strategy for the overall litigation.

• **Chantix/Pfizer** – The firm serves as co-lead national counsel in this products liability MDL (2,800 cases) concerning Chantix, an aid to smoking cessation. The firm has negotiated and litigated numerous MDL procedural issues, handled extensive fact discovery, including company witness depositions and affirmative discovery of initial bellwether plaintiffs and their healthcare providers, and deposed and defended experts. In August 2012, the firm (and its co-counsel) won summary judgment for Pfizer in the MDL on the adequacy of the current Chantix label, securing a ruling that the current label is adequate as a matter of law.

• **Reglan/Pfizer** – The firm has worked on legal strategy, particularly in certain appeals, in this litigation in which plaintiffs are attempting to hold the “innovator”/developer of the brand name drug liable for injuries allegedly caused by generic versions of the drug. In October 2012, Williams & Connolly argued and won an appeal in the U.S. Court of Appeals for the Fifth Circuit rejecting such “innovator liability.”

• **Medical Device Makers and Distributors/Surgical Mesh** – Williams & Connolly represented a large medical device distributor with respect to allegations concerning issues with surgical mesh used in hernia repair. The firm currently is doing the trial work-up of initial bellwether cases for a medical device maker of surgical mesh used in pelvic repair.

• **Yaz/Bayer** – Williams & Connolly served as co-national coordinating counsel in this MDL and various state coordinated proceedings (comprising over 15,000 cases total) – and was asked to be co-lead trial counsel in one of the two initial bellwether cases to be tried in the PCCP – before the entire litigation was ordered by the courts to mediation.

Our work for pharmaceutical and medical device makers often extends into areas beyond product litigation, including patent litigation, government investigations and securities litigation.

## Consumer Products, Equipment, Chemicals and Accidents

We have also handled litigation involving many other types of products, including:

- consumer products (e.g., dryers, refrigerators, extension cords)
- children's products (e.g., playground equipment)

- industrial equipment (e.g., turbines, generators, fire sprinklers)
- farm equipment (e.g., tractors)
- utility-grade electrical equipment (e.g., high-voltage circuit breakers, transformers)
- aviation-related products liability claims

The firm has handled personal injury and property damage claims arising from transportation accidents and from the alleged release of chemicals. For example:

• **Chemical Company/Groundwater Contamination** – The firm obtained a defense judgment for a chemical manufacturing company against landowners alleging groundwater contamination. The judgment followed a jury trial in Baldwin County, Alabama, in 2006 in which Williams & Connolly (and Alabama co-counsel) defended the company against claims for damages and remediation costs in excess of \$100 million. The Alabama Supreme Court affirmed the defense judgment in May 2010.

• **Bayer CropScience/Pesticide** – Williams & Connolly represented a large pesticide manufacturer in connection with a putative national class action filed by several beekeepers, who claimed the product caused harm to their bees and other economic damages. After class discovery, the court denied plaintiffs' motion for class certification, and after merits discovery on plaintiffs' individual claims, the court granted our client's *Daubert* motion to exclude plaintiffs' proffered expert testimony on scientific causation. As a result, the court granted summary judgment and dismissed the case in its entirety.

• **Train Accidents** – Williams & Connolly has represented Amtrak and CSX railroads in litigation arising from train accidents, including the derailment of an Amtrak passenger train near Mobile, Alabama, giving rise to an MDL involving multiple death and injury claims; and the derailment of a CSX freight train in a tunnel in Baltimore, Maryland, giving rise to multiple business interruption claims.

• **Steel Manufacturer/Dust and Chemical Emissions** – Williams & Connolly currently represents a large steel manufacturer in connection with claims that dust and chemical emissions from the plant caused the plaintiffs serious personal injury and/or property damage. The court recently granted our client's motion to dismiss with prejudice the claims of two-thirds of the plaintiffs on statute of limitations grounds.

• **Railroad Tank Car/Leak and Fire** – Williams & Connolly represented CSX Transportation Inc., in the settlement and class action fairness hearing in a Louisiana class action (of approximately 10,000 class members) involving a tank car leak of allegedly hazardous materials and a subsequent fire.