

Supreme Court and Appellate Litigation

Williams & Connolly has been widely recognized as one of the nation's leading firms for Supreme Court and appellate litigation. In the most recent editions of their guides to law firms, *Vault* ranked the firm second in the nation for appellate litigation, and *Chambers USA* cited the firm for having one of the top appellate practices in the country. In addition, *The National Law Journal* has repeatedly selected the firm for its "Appellate Hot List," a list of law firms with significant achievements in the area of appellate litigation.

Williams & Connolly lawyers regularly represent clients before the Supreme Court of the United States. The firm successfully presented oral argument on behalf of the defendants in *Omnicare v. Laborers District Council*, a closely watched case involving the actionability of statements of opinion under the federal securities laws. The firm also represented the defendant in *Maryland v. King*, the landmark case on the constitutionality of DNA testing of arrestees that one justice described as "perhaps the most important criminal procedure case that this Court has heard in decades."

Williams & Connolly lawyers also regularly appear in federal and state appellate courts across the nation. Our appellate experience spans all areas of our litigation practice, with notable victories in the areas of antitrust, criminal, patent, product liability, and securities law. The firm successfully represented Bank of America in the Second Circuit in its appeal from a \$1.3 billion judgment obtained by the government in a civil action concerning the sale of mortgage loans to Fannie Mae and Freddie Mac.

Currently, the firm's ranks include 17 former Supreme Court clerks and more than 180 former clerks from all 13 federal courts of appeals. *The American Lawyer* has described Williams & Connolly as a "feeder firm" for Supreme Court clerkships; in the last nine years, 40 of the firm's former associates or summer associates have clerked at the Court.

Williams & Connolly has an active pro bono practice at all levels of the appellate system. In *Smith v. Cain*, a team of Williams & Connolly lawyers successfully represented a Louisiana death-row inmate before the Supreme Court, arguing that the New Orleans district attorney's office violated the inmate's right to due process by failing to disclose favorable statements made by several eyewitnesses before trial. Associates from the firm routinely present oral arguments in pro bono cases in the federal courts of appeals and also in the Maryland appellate courts through the firm's longstanding relationship with the Maryland Public Defender's Office.

Representative Experience

- ***WesternGeco v. ION Geophysical***, 138 S. Ct. 2129 (2018) - Whether the award of lost-profit damages for patent infringement under 35 U.S.C. 271(f) constitutes an invalid extraterritorial application of the Patent Act.
- ***Dahda v. United States***, 138 S. Ct. 1491 (2018) - Whether wiretap orders that authorized interception outside the territorial jurisdiction of the issuing court were legally insufficient under the Wiretap Act.
- ***Digital Realty v. Somers***, 138 S. Ct. 767 (2018) - Whether a whistleblower is required to report alleged misconduct to the Securities and Exchange Commission before bringing suit for retaliation under the Dodd-Frank Act.
- ***Henson v. Santander Consumer USA***, 137 S. Ct. 1718 (2017) - Whether a financial institution that purchases debt from another financial institution and then attempts to collect that debt qualifies as a "debt collector" under the Fair Debt Collection Practices Act.

- **Midland Funding v. Johnson**, 137 S. Ct. 1407 (2017) - Whether the filing of a proof of claim on a time-barred debt in a bankruptcy proceeding violates the Fair Debt Collection Practices Act.
- **Dietz v. Bouldin**, 136 S. Ct. 1885 (2016) - Whether, after a judge has discharged a jury from service in a case and the jurors have left the judge's presence, the judge may recall the jurors for further service in the same case.
- **Coleman v. Tollefson**, 135 S. Ct. 1759 (2015) - Whether, under the "three strikes" provision of the Prison Litigation Reform Act, a district court's dismissal of a lawsuit counts as a strike before it becomes final on appeal.
- **Omnicare v. Laborers District Council**, 135 S. Ct. 1318 (2015) - What a plaintiff must prove in order to establish that a statement of opinion is actionable under the federal securities laws.
- **Warger v. Shauers**, 135 S. Ct. 521 (2014) - Whether evidence from jury deliberations is admissible to prove dishonesty during jury selection.
- **Clark v. Rameker**, 134 S. Ct. 2242 (2014) - Whether inherited individual retirement accounts are exempt from an individual's bankruptcy estate.
- **Maryland v. King**, 569 U.S. 435 (2013) - Whether the Fourth Amendment permits the warrantless collection and analysis of DNA from a person who has been arrested for, but not convicted of, a criminal offense.
- **Bailey v. United States**, 568 U.S. 186 (2013) - Whether police officers may detain an individual incident to the execution of a search warrant when the individual has left the scene before the warrant is executed.
- **Smith v. Cain**, 565 U.S. 73 (2012) - Whether the prosecution violated the defendant's right to due process by failing to disclose favorable statements made by several eyewitnesses before trial.
- **Merck v. Reynolds**, 559 U.S. 633 (2010) - What a plaintiff must know in order to trigger the running of the statute of limitations for federal securities-fraud claims.
- **Hawaii v. Office of Hawaiian Affairs**, 556 U.S. 163 (2009) - Whether a state court validly enjoined the State of Hawaii from selling public lands held in trust for Native Hawaiians.
- **Stoebner v. Opportunity Finance**, No. 17-1097 (8th Cir. Nov. 20, 2018) - Whether the bankruptcy court correctly refused to avoid loan payments as fraudulent transfers.
- **Conard v. Pennsylvania State Police**, No. 16-3346 (3d Cir. Aug. 28, 2018) - Whether the district court correctly dismissed a former state police officer's retaliation claim for giving negative references to her prospective employers.
- **JTH Tax v. Aime**, Nos. 17-1859 & 17-1905 (4th Cir. Aug. 8, 2018) - Whether the district court erred in determining that the plaintiff was entitled to lost profits when an alleged contractual modification was unsupported by independent consideration.
- **Ricketts v. Sessions**, No. 16-3182 (3d Cir. July 30, 2018) - Whether an appeal from a nationality determination following an intercircuit transfer must be taken to the appellate court that typically hears appeals from the district court making the determination.

- ***PGS Geophysical v. Iancu***, No. 17-1582 (Fed. Cir. June 18, 2018) - Whether the Board of Patent Appeals correctly invalidated a dependent claim in a patent based on its construction of an associated limitation in that claim.
- ***Hodsdon v. Mars***, 891 F.3d 857 (9th Cir. 2018) – Whether a plaintiff stated valid claims against a food manufacturer under the California consumer protection laws for the alleged failure to make certain disclosures.
- ***Blattman v. Scaramellino***, 891 F.3d 1 (1st Cir. 2018) - Whether certain documents concerning a corporate merger were protected by the attorney-client and work-product privileges.
- ***United States v. Litvak***, 889 F.3d 56 (2d Cir. 2018) - Whether a bond trader's conviction for securities fraud could be sustained in light of the erroneous admission of testimony concerning an alleged agency relationship.
- ***Document Technologies v. LDiscovery***, No. 17-2659 (2d Cir. Apr. 24, 2018) – Whether the district court correctly dismissed a trade-secrets claim for hiring employees from a competitor.
- ***Elenza v. Alcon Laboratories***, No. 2017-287 (Del. Mar. 20, 2018) - Whether the trial court correctly granted summary judgment on plaintiff's trade-secrets claim on ground that it had failed to show use or disclosure of the alleged trade secrets.
- ***AbbVie v. MedImmune***, 881 F.3d 1334 (Fed. Cir. 2018) – Whether a district court had jurisdiction over a declaratory-judgment action seeking a declaration of patent invalidity absent a corresponding contract claim.
- ***Bartels v. Saber Healthcare Group***, 880 F.3d 668 (4th Cir. 2018) - Whether plaintiffs were entitled to a remand after removal based on a forum-selection clause to which defendants were not signatories.
- ***Guilbeau v. Pfizer***, 880 F.3d 304 (7th Cir. 2018) - Whether product-liability claims against the manufacturer of a generic drug are preempted where the drug is a reference listed drug.
- ***United States ex rel. Greenfield v. Medco Health Solutions***, 880 F.3d 89 (3d Cir. 2018) - Whether a relator sufficiently alleged that a claim for payment was linked to a violation of federal law so as to state a claim under the False Claims Act.
- ***E.F. Transit v. Hood***, 878 F.3d 606 (7th Cir. 2018) - Whether a claim that an agency's enforcement of a state's liquor-distribution laws was preempted by federal law was ripe for adjudication.
- ***Knapp Medical Center v. Hargan***, 875 F.3d 1125 (D.C. Cir. 2017) - Whether the Stark Law prohibited judicial review of an agency's decision to permit expansion of a physician-owned hospital.
- ***United States ex rel. Spay v. CVS Caremark Corp.***, 875 F.3d 746 (3d Cir. 2017) – Whether the misrepresentations alleged in a False Claims Act action were material to the government's decision to pay the underlying claims.
- ***Olde Homestead Golf Club v. Electronic Transaction Systems***, 714 Fed. Appx. 186 (3d Cir. 2017) - Whether a forum-selection clause required the dismissal of a claim against an electronic-payments processor.
- ***Roberts v. Weight Watchers***, 712 Fed. Appx. 57 (2d Cir. 2017) – Whether a plaintiff stated a claim for breach of contract based on his inability to access a company's website and use its mobile application.
- ***NLRB v. CNN America***, 865 F.3d 740 (D.C. Cir. 2017) - Whether a broadcaster's termination of an outside contractor gave rise to liability as a "joint employer" under the National Labor Relations Act.

- ***Prather v. Sprint Communications, Inc.***, 855 F.3d 985 (9th Cir. 2017) - Whether a qui tam relator whose suit is dismissed for failure to prove he was an original source of publicly disclosed information can then intervene as of right in the government's False Claims Act action against the same defendant.
- ***Haar v. Allen***, 687 Fed. Appx. 93 (2d Cir. 2017) - Whether the district court abused its discretion by approving a class settlement and rejecting challenges to the settlement's procedural fairness.
- ***People v. Sprint Communications***, 148 A.D.3d 471 (N.Y. App. Div. 2017) - Whether the State of New York was required to disclose certain communications to a defendant in a tax controversy brought by the State.
- ***Eli Lilly v. Teva Parenteral Medicines***, 845 F.3d 1357 (Fed. Cir. 2017) - Whether generic drug manufacturers induced divided infringement of a patented method for administering a leading chemotherapy drug.
- ***In re Nexium Antitrust Litigation***, 845 F.3d 470 (1st Cir. 2017) - Whether the district court correctly upheld a jury verdict in an antitrust case challenging pharmaceutical patent settlements on a "reverse payments" theory.
- ***Ritchie Risk-Linked Strategies Trading v. Coventry First***, 673 Fed. Appx. 57 (2d Cir. 2016) - Whether the district court correctly entered judgment for a life-settlement company on the ground that an investor had failed to provide contractually required notice.
- ***United States ex rel. Ruscher v. Omnicare***, 663 Fed. Appx. 368 (5th Cir. 2016) - Whether a False Claims Act relator adduced sufficient evidence that the defendant falsely certified compliance with the Anti-Kickback Statute.
- ***Scenic America v. DOT***, 836 F.3d 42 (D.C. Cir. 2016) - Whether the Federal Highway Association's guidance permitting digital billboards is valid.
- ***Akina v. Hawaii***, 835 F.3d 1003 (9th Cir. 2016) - Whether plaintiffs may proceed with their claim that a now-canceled election of delegates to a Native Hawaiian self-organizing convention is unconstitutional.
- ***Apotex v. Wyeth***, 657 Fed. Appx. 998 (Fed. Cir. 2016) - Whether the Patent Trial and Appeal Board correctly upheld claims to a composition against an obviousness challenge.
- ***United States ex rel. O'Donnell v. Countrywide Home Loans***, 822 F.3d 650 (2d Cir. 2016) - Whether breaches of preexisting contractual warranties could serve as the basis for a fraud claim against a federally insured financial institution under the civil-penalties provision of FIRREA.
- ***AstraZeneca v. Mylan Pharmaceuticals***, 817 F.3d 755 (Fed. Cir. 2016) - Whether a generic drug manufacturer is subject to personal jurisdiction only in its home state in a patent-infringement action brought by a brand-name drug manufacturer.
- ***Boston Scientific v. Mirowski Family Ventures***, 133 A.3d 1176 (Md. Ct. Spec. App. 2016) - Whether a patent licensee breached the license agreement by settling claims against an entity that sold patented devices without the patentee's participation or approval.
- ***United States v. Litvak***, 808 F.3d 160 (2d Cir. 2015) - Whether a bond trader's convictions for securities fraud and other offenses could be sustained, in light of the exclusion of evidence pertaining to materiality and good faith.

- ***Certain Funds v. KPMG***, 798 F.3d 113 (2d Cir. 2015) - Whether applicants for discovery in foreign proceedings established that the evidence they sought was “for use” in those proceedings.
- ***Peterson v. McGladrey***, 792 F.3d 785 (7th Cir. 2015) - Whether the district court properly applied the in pari delicto doctrine to bar a trustee's claims.
- ***Rader v. Greenberg Traurig***, 352 P.3d 465 (Ariz. Ct. App. 2015) - Whether Arizona should adopt cross-jurisdictional tolling of limitations periods in class actions.
- ***Howard Town Center Developer v. Howard University***, 788 F.3d 321 (D.C. Cir. 2015) - Whether there was a genuine dispute about the due date for a rental payment in a real-estate development.
- ***Biogen v. Japanese Foundation for Cancer Research***, 785 F.3d 648 (Fed. Cir. 2015) - Whether the Federal Circuit has exclusive jurisdiction over challenges to decisions in interference proceedings under the America Invents Act.
- ***Carlyle Investment Management v. Moonmouth Co.***, 779 F.3d 214 (3d Cir. 2015) - Whether the district court correctly remanded the case to state court pursuant to a forum-selection clause in an agreement between affiliated parties.
- ***United States ex rel. Morgan v. Express Scripts***, 602 Fed. Appx. 880 (3d Cir. 2015) - Whether claims under the False Claims Act were correctly dismissed because they were based on publicly disclosed allegations and the relator was not the original source.
- ***Freeman v. Wyeth***, 764 F.3d 806 (8th Cir. 2014) - Whether a district court correctly denied plaintiff's motion seeking reinstatement of a case that was dismissed after plaintiff's attorney failed to respond to discovery orders.
- ***Martin v. McDonald***, 761 F.3d 1366 (Fed. Cir. 2014) - Whether the Department of Veterans Affairs correctly denied a veteran educational benefits after his honorable discharge for alcohol rehabilitation failure.
- ***Mercado v. Holder***, 586 Fed. Appx. 694 (9th Cir. 2014) – Whether the Board of Immigration Appeals erred in determining that a family did not constitute a particular social group for purposes of asylum.
- ***Moretti v. Wyeth***, 579 Fed. Appx. 563 (9th Cir. 2014) - Whether plaintiff stated a cause of action against brand-name drug manufacturers for injuries allegedly suffered from the ingestion of a generic formulation that they had neither manufactured nor sold.
- ***City of Edinburgh Council v. Pfizer***, 754 F.3d 159 (3rd Cir. 2014) - Whether the district court correctly dismissed a securities class action on the ground that plaintiffs failed adequately to allege false or misleading statements or a duty to disclose.
- ***Wu v. Stomber***, 750 F.3d 944 (D.C. Cir. 2014) - Whether the district court correctly dismissed plaintiffs' securities-fraud claims on the ground that plaintiffs failed sufficiently to allege a material misstatement or omission.
- ***Alcon Research v. Barr Laboratories***, 745 F.3d 1180 (Fed. Cir. 2014) - Whether claims in patents for eye drops were invalid under the Patent Act's enablement and written-description requirements.

- ***Southern Wine and Spirits of America v. Division of Alcohol and Tobacco Control***, 731 F.3d 799 (8th Cir. 2013) - Whether Missouri's residency requirements for liquor wholesalers are constitutional under the dormant Commerce Clause.
- ***Schrock v. Wyeth***, 727 F.3d 1273 (10th Cir. 2013) - Whether plaintiff stated a cause of action against brand-name drug manufacturers for injuries allegedly suffered from the ingestion of a generic formulation that they had neither manufactured nor sold.
- ***Sampson v. United States***, 724 F.3d 150 (1st Cir. 2013) - Whether juror dishonesty in the voir dire process required vacatur of the defendant's death sentence.
- ***Slater v. A.G. Edwards & Sons, Inc.***, 719 F.3d 1190 (10th Cir. 2013) - Whether the district court correctly dismissed a securities class action against an underwriter on the ground that the offering documents at issue contained no misrepresentations or omissions.
- ***National Industries Group v. Carlyle Investment Management***, 67 A.3d 373 (Del. 2013) - Whether the Delaware Chancery Court properly enforced a forum-selection clause in a dispute between an investment firm and one of its investors.
- ***CLS Bank International v. Alice Corporation***, 717 F.3d 1269 (Fed. Cir. 2013) (en banc) - Whether, and under what circumstances, computer-implemented inventions are eligible for patenting.
- ***Henriquez-Rivas v. Holder***, 707 F.3d 1081 (9th Cir. 2013) (en banc) - Whether the Board of Immigration Appeals erred in determining that witnesses who testify against gang members may not constitute a particular social group for purposes of asylum.
- ***Luiken v. Domino's Pizza***, 705 F.3d 370 (8th Cir. 2013) - Whether the district court erred by certifying a class of drivers claiming that a fixed charge customers paid for delivery was a gratuity under Minnesota law.
- ***Kleinman v. Elan Corp.***, 706 F.3d 145 (2d Cir. 2013) - Whether the district court correctly dismissed a securities class action on the ground that the alleged omissions did not render defendants' statements false or misleading.
- ***Candelario del Moral v. UBS***, 699 F.3d 93 (1st Cir. 2012) - Whether a bank acted reasonably in releasing an attachment based on the minutes of a verbal ruling.
- ***Demahy v. Schwarz Pharma, Inc.***, 702 F.3d 177 (5th Cir. 2012) - Whether plaintiff stated a cause of action against brand-name drug manufacturers for injuries allegedly suffered from the ingestion of a generic formulation that they had neither manufactured nor sold.
- ***Eli Lilly v. Teva***, 689 F.3d 1368 (Fed. Cir. 2012) - Whether claims in a patent for a leading chemotherapy agent were invalid on grounds of obviousness-type double patenting.
- ***Alcon v. Apotex***, 687 F.3d 1362 (Fed. Cir. 2012) - Whether claims in a patent for leading anti-allergy eye drops were invalid on grounds of obviousness.
- ***Rick v. Wyeth***, 662 F.3d 1067 (8th Cir. 2011) - Whether a state court's prior grant of summary judgment dismissing a plaintiff's claims under the law of that state as time-barred precluded the assertion of the same claims in federal diversity actions.

- ***Fidelity Warranty Services v. Firststate Insurance Holdings***, 74 So.3d 506 (Fla. Dist. Ct. App. 2011) - Whether a jury verdict for tortious interference and defamation could stand where damages were based on speculative testimony of the business's owner and where the alleged defamatory statement constituted pure opinion.
- ***Mamani v. Berzain***, 654 F.3d 1148 (11th Cir. 2011) - Whether the plaintiffs alleged valid claims against the former president of Bolivia under the Alien Tort Statute.
- ***United States v. Ferguson***, 653 F.3d 61 (2d Cir. 2011) - Whether the defendants' convictions for securities fraud should be vacated because the district court improperly admitted evidence concerning stock-price data and improperly instructed the jury on causation.
- ***Central Mortgage Co. v. Morgan Stanley Mortgage Capital Holdings***, 27 A.3d 531 (Del. 2011) - Whether the plaintiff sufficiently alleged breach-of-contract and other claims arising from the defendant's failure to repurchase securitized loans.
- ***Hologic v. SenoRx***, 639 F.3d 1329 (Fed. Cir. 2011) - Whether it is proper to import a limitation into a patent claim that is contained in other claims but not the claim at issue, based on embodiments in the specification.
- ***United States v. Ford***, 639 F.3d 718 (6th Cir. 2011) - Whether the failure to disclose financial interests related to the functions of state government satisfied the jurisdictional requirement of the federal false-statements statute.
- ***Huffington v. T.C. Group***, 637 F.3d 18 (1st Cir. 2011) - Whether a forum-selection clause in the parties' agreement was enforceable and covered the claims at issue.
- ***Scott v. Roberts***, 612 F.3d 1279 (11th Cir. 2010) - Whether a provision of Florida's campaign-finance laws that provided subsidies to opponents of self-financed candidates violated the First Amendment.
- ***Rocky Mountain Christian Church v. Board of County Commissioners of Boulder County***, 613 F.3d 1229 (10th Cir. 2010) - Whether a county commission's denial of a church's special-use application violated the Religious Land Use and Institutionalized Persons Act (RLUIPA).
- ***Pacific Investment Management Co. v. Mayer Brown LLP***, 603 F.3d 144 (2d Cir. 2010) - Whether a law firm can be held liable in a private securities-fraud action based on statements that were not attributed to the firm.
- ***In re Sprint Nextel Corp.***, 593 F.3d 669 (7th Cir. 2010) - What a plaintiff must show in order to invoke the "home-state exception" to federal jurisdiction under the Class Action Fairness Act.