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Appellate Group Of The Year: Williams & Connolly

By Justin Wise

Law360 (February 2, 2022, 2:02 PM EST) -- Williams & Connolly LLP notched multiple U.S. Supreme Court wins on behalf of benefits applicants and successfully represented health care firm GlaxoSmithKline in a Delaware case that could have a major influence on contract law, helping the firm once again earn a spot among Law360's 2021 Appellate Groups of the Year.

Led by partner Lisa Blatt, the Williams & Connolly practice has argued 10 cases before the high court over the past three years, including four during the 2020-21 term. Those included the high-profile First Amendment dispute zeroing in on whether a Pennsylvania school district violated a high school cheerleader's constitutional rights when it disciplined her for an off-campus, expletive-laden Snapchat post.

Blatt led arguments on behalf of the school district, and while the Supreme Court ruled that the district went too far in its punishment, it also said schools remained entitled to regulate off-campus speech in some circumstances, a decision Blatt said offered a positive outcome for both parties.

"It's extremely important both for student rights and the ability of schools to regulate speech," said Blatt, who has argued 41 Supreme Court cases in her career. "It was a great balancing act of the court."

Blatt is joined by three partners, two full-time associates and as many 20 other associates who split their time between trial and appeals work. She said her guiding philosophy is one she gained from Williams & Connolly earlier in her career: "You start the case as, 'This is war, we have to win, and let's get busy.'"

In 2021, the cases argued by the Williams & Connolly team varied from a fair use dispute in the Second Circuit over artist Andy Warhol's work to thorny administrative law questions before the Supreme Court.

"I can't think of other firms with quite the breadth of issues that we all as attorneys cover," said partner Sarah Harris, a Law360 2021 Appellate MVP. "I think it underscores that unlike some other practices, we run the gamut of the ideological spectrum. There's strength in being able to have a bipartisan group of partners, [which] also lets you take on more cases and more issues."

Harris and partner Amy Saharia made their Supreme Court debuts during the 2020-21 term. Harris led teams that prevailed in both cases she argued, including a unanimous 9-0 decision that



rejected the Social Security Administration's claim that benefits applicants are barred from raising arguments in court that weren't first made before the agency.

The case zeroed in on the recourse benefits applicants have to appeal decisions made by administrative judges who were found to be unconstitutionally appointed. Harris said there are about 1,000 cases that had this quirk, in which individuals did not raise the appointments clause issue when the agency was ruling on their disability benefits applications.

"It's very gratifying to be able to take on cases that call out the government when it's cutting corners or not giving enough review in some of those processes," Harris said. "It can seem awfully impenetrable, especially to ordinary folks who haven't gone to law school."

Outside the Beltway, Williams & Connolly scored a slate of significant victories, including what Blatt called probably the firm's biggest win, when the Delaware Supreme Court reversed a trial court decision that had put GSK on the hook for \$57 million in damages over its decision to halt royalty payments on a lupus drug.

The investment firm Drit LP accused GSK, represented by Williams & Connolly, of acting in bad faith by ending royalty payments that were part of an agreement the parties reached to end a patent dispute. GSK had stopped those payments after disclaiming its patent, and Drit argued that it did so in breach of the implied covenant of good faith and fair dealing.

On appeal, the Delaware high court found that GSK shouldn't be held liable since the parties' contract expressly excluded "disclaimed" patents from royalty payments,

Delaware is "a core forum for contract resolution, which is why it was such an important case," said Blatt, who led arguments on behalf of GSK and predicted that the case's result would have important influence over future commercial disputes.

In another highly publicized case from 2021, the firm came out on the winning end of a copyright battle over Warhol's artwork. A team led by partner Thomas Hentoff convinced a Second Circuit panel that a decades-old series of Warhol prints of music legend Prince had infringed the copyrighted photograph on which they were based.

That decision, however, may not be the final word. The Andy Warhol Foundation in December filed a petition for the Supreme Court to review the ruling.

Blatt emphasized that Williams & Connolly's appellate practice — which was also a Law360 Group of the Year in 2020 and 2018 — isn't a one-person show in which a partner or set of partners gets all the glory. She highlighted a pipeline that she and Harris have cultivated to consistently get associates' oral arguments in the appeals courts, as well as the range of attorneys taking on Supreme Court cases. For example, partner Luke McCloud in January argued his first case before the justices.

And the work "keeps coming," Harris said. "I'm hopeful 2022 will continue the trend of being quite busy."

--Editing by Rich Mills.