

Litigation Powerhouse: Williams & Connolly

By Jenna Ebersole

Law360, Washington (August 24, 2016, 8:35 PM ET) --With a focus on steady growth by raising up attorneys in-house and a continued tradition of trial work from a central office, Williams & Connolly LLP has maintained its place at the top for decades and won victory in recent months for clients as diverse as HBO and a criminally charged bond trader, earning a slot on Law360's list of Litigation Powerhouses.

The firm, founded by the legendary Edward Bennett Williams in the 1960s, pulls in top-flight law school graduates and has maintained a slow but even pace of growth culminating in 271 attorneys, with 119 of them partners. Williams & Connolly rarely pulls in outside partners and works more leanly than its peers, several attorneys at the firm said, ensuring critical experience for its lawyers.

"I think a reason why we're successful is because we get the most talented lawyers that you can find from the top law schools and we develop them from year one as a lawyer, and they grow up as lawyers in the same culture as everyone here,"



Williams & Connolly

Litigation Attorneys: 271

Litigation Partners: 119

Big Wins:

Omnicare v. Laborers District Council – The Supreme Court rejected a Sixth Circuit finding against Omnicare Inc. that executives can be held responsible for opinions expressed to investors that turn out to be false. The high court said the statements are only actionable if the speaker didn't believe the opinion or if it was misleading because it omitted a key fact.

Litvak v. United States – In a criminal case focused on a federal program designed to aid the mortgage-backed securities market after the financial crisis, former Jefferies & Co. bond trader Jesse Litvak won a reversal of his conviction at the Second Circuit when the court found the evidence presented to the jury didn't sufficiently show that Litvak's alleged misstatements were material to the government.

Mitre Sports Int'l Ltd. v. Home Box Office Inc. – HBO prevailed in the first major defamation case to go to trial in years, with a New York jury rejecting claims by a major soccer ball manufacturer that a segment falsely portrayed the company using or condoning child labor.

In re: Januvia Products Liability Litigation – Client Merck Sharp & Dohme Corp. won a major victory over allegations that popular Type 2 diabetes treatments Januvia and Janumet cause pancreatic problems when all federal cases and most state court cases were effectively wiped out.

United States v. Biddix et al. – The owner of a wireless company, Kevin Brian Cox, escaped charges of allegedly defrauding the Federal Communications Commission in the administration of the low-income Lifeline subsidy program, with the government voluntarily dismissing an indictment on the day the trial was set to begin.

Trial Tip:

"Prepare with a purpose. Preparation for the sake of preparation is wheel-spinning. The end goal is not to have memorized every single fact in the case, or to have thought of every available argument, but to have developed a case that will resonate with the jury. That requires cutting the minutiae and figuring out how to present the essential facts and arguments in compelling and common sense ways." – Heidi Hubbard

Williams & Connolly Chairman Dane Butswinkas said. "[It's] a culture that was created by Edward Bennett Williams, who probably was the best trial lawyer of the 20th century."

By taking cases of all sizes and assigning fewer attorneys than its peers, the firm gives associates a chance to handle cases early on and take roles in bigger disputes that are less compartmentalized, Butswinkas said.

"That really is the lifeblood of our firm, having a continuous stream of accomplished, experienced lawyers, and I think a lot of clients will turn to us especially when they have something that is likely to have a trial, whether that be a bet-the-company case or a medium-sized case or a small case," he said.

The law firm's approach has resulted in many major successes. Partner Heidi Hubbard said the firm's defense of HBO in a monthlong defamation trial in the spring of 2015 illustrates "what makes the firm special."

In that case, a major soccer ball manufacturer claimed Home Box Office's "Real Sports with Bryant Gumbel" was defamatory in alleging the company used or ignored the use of child labor in manufacturing balls in India. It was the first major defamation case to go to trial in years and the jury returned a verdict for HBO after deliberating for five hours.

Hubbard said the case showed the confidence a client can place in the firm's ability to try a case even on an issue that almost never reaches that stage. Butswinkas tried the case and had a "great win," she said.

"I think it's illustrative of the fact that we're trial lawyers first and foremost and that informs everything we do and makes it possible for clients even to take a case of a type that never goes to trial, to take it to trial and have it be successful," she said.

In the only criminal case brought against an individual that was connected to the Troubled Asset Relief Program, a government bailout program following the financial crisis, the firm scored another victory last year when it successfully fought for former Jefferies & Co. bond trader Jesse Litvak. Litvak, convicted of securities fraud and other offenses and sentenced to two years in prison, won a new trial in December 2015 at the Second Circuit.

The court found that the evidence presented wasn't enough to show that alleged misstatements were material to the government. Litvak has retained the firm to represent him on the retrial.

Butswinkas said the firm's approach to prevailing in important cases is recognizing that they are a "marathon and not a sprint."

"Sometimes these cases take a long time to win," he said. "You don't always win at trial; sometimes you do. You don't always win on motions, but sometimes you do. But generally in cases you win, you win a little bit at a time."

Victories don't often resemble scripted dramas, he added.

"It's a very anxiety-laden, stressful experience that is quite unlike the hourlong TV shows that show the lawyer just winning the case in the end," Butswinkas said.

Trials are the firm's bread and butter and that helps at every stage of the case and sets the firm apart from others, according to Hubbard.

"Litigation is what we do, it's all we do and it's what we love," she said.

The depth of the firm's experience at trial informs its ability to help clients throughout cases, using a long-range view of strategy at early stages such as discovery. The firm knows how to win, Hubbard said.

"We find ways to win at all stages of litigation, whether that's pretrial, trial, appeal," she said.

In one case last fall, Hubbard helped defend Coventry First LLC at trial in New York as American International Group Inc. sought a \$2 billion judgment over an alleged scheme to inflate life insurance policy prices. She said she was there for more than two months for the bench trial, finishing the evidence at 11:30 p.m. on a Friday and completing it, only to have the case settle later.

Hubbard said she felt they tried a great case and would personally have enjoyed seeing the outcome, but the firm is also experienced in resolving cases when companies decide to move on for business reasons.

Firm partner Joe Petrosinelli said he helped try that case and believes it illustrates the firm's focus on involving fewer attorneys than is more typical of opponents.

"But it was quite a battle and I thought it was an interesting case and I enjoyed trying it with Heidi," he said.

One of Williams & Connolly's unique attributes, maintaining only one office location, also generally helps the firm be more creative in problem-solving, Petrosinelli said. While some lawyers might be tempted to follow a kind of playbook as a model for litigating certain kinds of cases, he said the firm brings a perspective that is less one-size-fits-all.

"We have a truly national trial practice — meaning we have tried cases in so many places and so many jurisdictions — that I think that gives us an advantage in thinking about how to try a particular case most effectively," he said.

The firm also has diverse attorneys in one office that work across the country, Petrosinelli said.

"I think the combination of different kinds of people from all over, trying cases all over and then having a lot of those trials, I think that's why we think of and come up with different and creative ideas that maybe other people don't see," he said.

The firm has a history in the public eye, with clients ranging from President Bill Clinton to U.S. Marine Lt. Col. Oliver North, but resists focusing on past successes, Butswinkas said. To maintain its status, Williams & Connolly must constantly be looking to the future.

"We have a constant focus ... on making sure that we get the best lawyers in the door. We develop them here, they get experience, so that each new generation of lawyers ... is a group of accomplished, experienced lawyers who try cases — because if you miss one generation, it's a major setback," he said.

Petrosinelli said the firm has evolved over the years, including with more international client work, but also maintains a steady structure and culture and continues to be incredibly selective at the hiring stage.

"They're kind of the cream of the crop coming out of law school, and I think our clients find our associate quality to be so high that it's kept them coming back to us," he said.

Williams & Connolly is looking ahead to continued activity in the coming months, including on the Litvak case and in representing ITT Educational Services Inc. as it faces allegations from the U.S. Securities and Exchange Commission of fraud and other violations.

Avoiding becoming complacent means never settling for savoring the last big victory, Hubbard said.

"For me, personally, every single day I think about what is my next trial, what is the trial after that, and then I say, 'What am I doing to make sure that my colleagues have a next trial and a trial after that?'" she said.

--Editing by Katherine Rautenberg and Kelly Duncan.