

Health Care Group Of The Year: Williams & Connolly

By **Donald Morrison**

Law360 (March 2, 2023, 2:03 PM EST) -- Williams & Connolly LLP secured a win for the nation's three largest drug distributors in the bellwether trial in multidistrict opioid litigation in West Virginia while also earning a significant arbitration victory for CVS after the company was sued by one of the nation's largest insurers, earning it a spot among Law360's 2022 Health Care Groups of the Year.

Practice group co-chair Enu Mainigi, a Law360 2021 Health Care MVP, said the Washington, D.C.-based firm's health group is its largest industry team and drives a significant part of its revenue.

The group's success in the West Virginia opioid trial, which closed in July 2022, also helped the drug distributors reach a \$518 million settlement with the state of Washington, Mainigi said.

"We've invested a lot of time and emotional, physical energy in the opioid cases," she said. "[The bellwether] opinion, which is a complete vindication of the distributors, was pretty amazing. There's nothing that can compare to that for 2022."

After a three-month, 70-witness federal trial in West Virginia, Williams & Connolly secured a complete defense victory for Cardinal Health in the first distributor trial in the nationwide opioid litigation. The firm successfully argued that the distributors complied with their duties to report suspicious opioid orders, and held that the plaintiffs failed to prove that the distributors did not maintain effective controls against diversion.

"That case was actually tried in 2021, and I was the lead trial counsel for the case," Mainigi said. "It's a victory that will have a huge effect on the remainder of the opioid litigation, which has dominated the legal news."

Cardinal Health, as well as two other distributors, reached a \$518 million settlement with the state of Washington in May 2022, with the distributors saying that they dispute the allegations by the state that they shipped excessive amounts of opioids to areas with no legitimate need. The settlement amounts to less than 1% of what the prosecution sought.

"This was a six-month trial in Seattle, which is crazy," Mainigi said. "And even though it ended in a settlement, it was clear we were getting traction, and that's why it was ultimately resolved."



One of the cases that reflects the group's goal-oriented strategy was its successful defense of CVS Health Corp. in a class action accusing CVS executives of making false statements in the aftermath of its 2015 merger with Omnicare Inc.

The First Circuit in August 2022 agreed with a lower court that the shareholders hadn't pointed to any false statements made by the pharmacy chain. The three-judge panel sided entirely with CVS, concluding that the complaint failed adequately to plead the falsity of the company's statements, reaffirming its precedent forbidding plaintiffs from waiting until after a motion to dismiss is granted to attempt to replead.

The firm also secured a significant arbitration victory for CVS after the company was sued in several suits by insurers accusing it of fraudulently inflating drug reimbursement rates. A Rhode Island federal judge rejected the pharmacy chain's argument that those claims are subject to a recently discovered arbitration agreement.

"This case stands out to me because we were able to prevail in a way other firms hadn't been able to in suits with similar circumstances," Mainigi said.

She added that she feels Williams & Connolly is finding balance after the disruption caused by the COVID-19 pandemic.

"Litigation has been nonstop since the beginning of COVID, and I don't think there's any sign of it slowing down," Mainigi said. "I think everybody's trying to find their equilibrium, trying to figure out what can be done by video versus the benefits from doing it in person."

Many firms, including Williams & Connolly, spent part of last year trying to figure out a hybrid schedule for attorneys that worked best for both clients and litigators, Mainigi said.

"I think 2023 will be about getting to a new normal, whatever that new normal is, because 2022 was kind of a transitional year," she said. "And so I think 2023 is going to be us winding up for the long-term future here."

--Editing by Gemma Horowitz.