

Health Care Group Of The Year: Williams & Connolly

By **Kevin Stawicki**

Law360 (January 29, 2020, 3:36 PM EST) -- Williams & Connolly LLP last year successfully defended CVS from Medicaid fraud claims leveled by the state of Texas and continues to spearhead Cardinal Health Inc.'s defense in sweeping multidistrict litigation over the opioid crisis, landing the firm a place among Law360's 2019 Health Care Groups of the Year.

The success of the health care group, which includes fewer than a dozen attorneys, stems from a collegial atmosphere and personal relationships that started developing decades ago, said Enu A. Mainigi, a partner and co-chair of the firm's health care practice.

"Our health care group is small but mighty," Mainigi said. "The benefit we have as a smaller group all under one roof — a critical calling card of the firm — is that we've all grown up together. We are collegial and we work together extremely well. We know each other's strengths and weaknesses."

But Mainigi said that becoming one of the only well-defined practice groups in the general litigation firm can be chalked up to happenstance.

"We are lucky enough to be a firm of general litigators. It just so happens that the health care group has come to specialize," she said. "It just worked out that way."

One of the key victories for the firm involved obtaining a directed verdict for CVS in a jury trial where the Texas attorney general claimed that the pharmacy calculated improper pricing for Medicaid.

After a more than two-week trial, a state judge entered the directed verdict for CVS on the claim carrying most of the damages, finding that the attorney general failed to prove the pharmacy improperly billed the state and that its pricing was not inconsistent for the health care industry.

The firm also continues to serve as lead and national counsel for Cardinal Health in multidistrict litigation challenging the company's distribution of opioids.

The firm started representing Cardinal in the first West Virginia county lawsuits filed in late 2016, which slowly grew into sweeping multidistrict litigation, according to Jen Wicht, the firm's health care co-chair.



"The opioid litigation is probably one of the most complex and challenging in the country. It's complex and novel both legally and procedurally," Wicht said. "It encompasses the whole industry from manufacturers to distributors to pharmacies, which requires an exceptional level of coordination."

In October, Cardinal and other companies were part of a \$260 million settlement with two Ohio counties over their alleged role in the opioid crisis.

In late November, the Ohio federal judge guiding the MDL singled out numerous cases as good candidates for future bellwether trials. Other cases have recently been remanded to their originating jurisdiction while some of the state cases are set for trial.

Whether a New York federal judge will bifurcate some issues at an upcoming trial is also something to watch, Wicht said.

"There are a lot of interesting issues developing and brewing right now about what bifurcating a trial means in terms of discovery and whether it's feasible," Wicht said. "How will that work and affect the parties' views of the overall litigation?"

Part of the complexity of the MDL is the vast number of attorneys general, cities, counties, congressional inquiries and other related litigation, which requires a highly coordinated team of attorneys across the country, Wicht said.

"With so many different avenues going on in the overall litigation, we need to make sure we're being as consistent as we can nationwide in terms of how we approach the issues," she said.

That coordination is central to how the firm is trusted to handle litigation as consequential as the opioid MDL, Mainigi said, who is serving as lead counsel for Cardinal Health.

"We have developed a reputation for working hard to absorb where the client wants to be on a case and work backwards from there," Mainigi said. "When we get a case, we immediately start thinking about how, if that case goes to trial, how that case may look and the optics of the trial and we work backwards from there in shaping the discovery."

"That's not to say that our desire is to try every case," she continued. "Thinking ahead to how a case may actually be tried if needed is an invaluable exercise and a very helpful tool for us in how to position the case for exit strategies."

But in the end, success comes down to being unafraid to tell it like it is and take a leadership role, she said.

"We are not afraid to provide the client advice on our views on how to litigate the case," she said. "We have found in many of the cases we often wind up playing a leadership role among the various firms involved."

--Editing by Nicole Bleier.