

The Legal Intelligencer

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LEGAL & LITIGATION DEPARTMENTS OF THE YEAR



Photo by Nanette Kardaszski

The insurance litigation team at White and Williams.

WHITE AND
WILLIAMS
WINNER, INSURANCE

UP TO THE TASK

WHITE AND WILLIAMS TAKES TEAM APPROACH TO
INSURANCE LITIGATION

BY ZACK NEEDLES

Of the Legal Staff

With 95 attorneys, White and Williams' insurance litigation team is by no means tiny. But a look at the list of megafirms the group routinely

goes up against—and bests—in insurance matters does put into perspective the skill with which the firm leverages its talent.

“If you look at some of our cases, our opposing counsel is firms like Covington [& Burling] and K&L Gates,” said Patricia Santelle, the firm’s managing partner, who also has an active insurance litigation practice. “There are a lot of resources up against us, so it’s quite a battle.”

But a battle, Santelle quickly added, that her firm is more than up for.

Take, for example, *Travelers Indemnity Co. v. Northrop Grumman Corp.*, a dispute over environmental insurance coverage for the cleanup and remediation of 18 former manufacturing sites.

The case involved 70 fact witness depositions, more than a dozen expert depositions and the review of four million pages of documents, all within the space of about a year.

Santelle said the case was a “tremendous challenge” and a true team effort that required piecing together a history dating back to the 1950s.

The firm represented Century Indemnity Co., one of two insurers, along with Travelers Indemnity Co., that issued policies to Northrop Grumman Corp. between 1950 and 1985, according to court documents. Northrop, which was seeking coverage for the cleanup and remediation of the 18 sites at issue, was represented by Covington & Burling, which has close to 800 lawyers firmwide and defended the case aggressively. The alleged cleanup cost for one site alone was \$100 million, according to information provided by White and Williams.

Discovery and trial were bifurcated into two phases, with eight sites in the first phase and 10 in the second phase. Santelle and her team—partners David B. Chaffin, Shane R. Heskin and Robert F. Walsh, along with associates Adam M. Berardi, Sara C. Tilitz and Sara J. Mirsky—successfully convinced the U.S. District Court for the Southern District of New York to dismiss claims related to all eight Phase 1 sites. As of press time, some of those rulings

were on appeal to the U.S. Court of Appeals for the Second Circuit. Phase 2, meanwhile, has settled.

Santelle said the case required her team to work closely with Simpson Thacher & Bartlett, which represented co-plaintiff Travelers, and involved a “Herculean effort” by both firms.

But the case was not an anomaly.

Indeed, another major victory for the firm’s insurance group came in *OneBeacon Insurance Co. v. Urban Outfitters Inc.*, in which they came up against defendants represented by 700-lawyer Proskauer Rose.

In that matter, which was a case of first impression in Pennsylvania and only the second of its kind in the U.S., White and Williams partners Joshua A. Mooney and Michael O. Kassak successfully argued in the U.S. District Court for the Eastern District of Pennsylvania that their client, OneBeacon Insurance Co., had no duty to defend Urban Outfitters and Anthropologie from class actions alleging the retailers unlawfully collected ZIP codes and other personal information from customers.

Santelle and Michael Olsan, chair of the White and Williams’ commercial litigation department, said teamwork and information-sharing among the firm’s insurance lawyers are the keys to taking on complex matters against formidable opposing counsel.

According to Olsan, the insurance litigation team is split into groups, each with its own practice focus—complex litigation, reinsurance, bad faith and others—but those groups are in constant contact and collaboration with each other.

“We have different practice areas in a practice group ... but they don’t stand as islands,” Olsan said.

The groups work to keep each other informed about developments in the insurance industry, insurance law and even in their individual cases, according to Olsan.



All of that goes to a larger point Olsan and Santelle both made: Understanding—and keeping current on—each client’s business and the industry in which it operates is essential for litigators in an era when in-house de-

partments are facing massive internal pressure to get as much value as possible from their outside counsel.

“It’s not only about the stakes of a particular case,” Olsan said. “One of the things we offer our clients in litigation especially is the knowledge of what issues are confronting them.”

Attorneys need to tailor their approach to each case based on how it will affect the client in both the short term and the long term, Olsan said.

For example, it might make sense to fight a case that doesn’t have much money at stake because the issue is one that’s likely to recur, proving more costly in the future, he said.

But it’s important to understand that “different clients have different appetites for how far they’ll take a case in litigation,” Olsan added.

Perhaps more than anything, that requires listening to the clients rather than talking at them, Olsan said, relating a credo he once heard and took to heart: “You have two ears and one mouth. Use them proportionally.” •