

Commercial Litigation

The Commercial Litigation group provides a full range of counseling and litigation services and has established an excellent reputation for efficiently providing creative and strategic solutions to clients. Our lawyers have gained national recognition for their experience representing clients in a variety of sophisticated and high-stakes commercial litigation matters. Our lawyers have practiced extensively in state, federal and private forums across the United States, and have managed complex litigation on a national level. Our team includes accomplished litigators, trial lawyers, and appellate advocates.

We have considerable experience collaborating with corporate representatives, in-house counsel and members of the firm's other practice groups, leading to more efficient, cost-effective representation. Our diverse clients range from local, regional and national firms to individuals, and include international *Fortune* 100 companies, publicly held and privately held businesses, banks, manufacturers, law firms, accounting firms, insurance companies, construction companies, health care providers, health care management firms, securities brokerages, and governmental entities.

Alternative Dispute Resolution

Our lawyers work with clients in all aspects of alternative dispute resolution. Our experience includes:

- Binding and non-binding, sponsored and non-sponsored arbitration
- Mini-trials
- Summary jury trials
- Employment dispute resolution
- High-low agreements
- "Baseball" agreements
- Structured mediation
- Early neutral evaluation
- Facilitated negotiation
- Confidential listener services

We assist clients as advocates in ADR forums, as counselors in selecting ADR professionals and processes geared favorably toward particular client needs, and as arbitrators and mediators in specialized fields. Our lawyers have designed and implemented client-training programs on a variety of ADR topics at introductory and advanced levels. We also offer services in all aspects of drafting both pre- and

PRACTICE CONTACTS

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RELATED PRACTICES

Appellate
Class Actions
Corporate and Securities
Finance
Intellectual Property
Labor and Employment
Professional Liability

RELATED INDUSTRIES

Financial & Investment Services
Food and Beverage
Gaming
Healthcare
Insurance
Technology

PRACTICE HIGHLIGHTS

- We provide high-quality and timely services to clients at a competitive cost.
- We have gained national recognition for our experience representing clients in a variety of sophisticated and high-stakes commercial litigation matters.

post-dispute ADR clauses and procedures and in the design and implementation of ADR programs.

Restrictive Covenant, Trade Secret & Unfair Competition Services

The Restrictive Covenant, Trade Secret & Unfair Competition Team at White and Williams understands what it means to protect your business. We have litigated hundreds of restrictive covenant, trade secret and unfair competition matters throughout the United States. In addition to our litigation experience, we serve as trusted advisors to our business clients by providing advice regarding the enforceability of restrictive covenant, trade secret and confidentiality agreements. Our advice helps our clients ensure that they have the proper protective measures and strategies in place to prevent damage and loss to their business. Our clients come from a wide variety of industries, including insurance, aerospace, executive recruiting, petrochemical, real estate, technology, transportation, media, and other professional services. Sometimes, even with protective measures and strategies in place, litigation is inevitable and the Restrictive Covenant, Trade Secret & Unfair Competition Team at White and Williams routinely is called upon to seek immediate equitable relief to enforce contractual obligations and protect our clients' business interests.

Our team has counseled numerous businesses and individuals with respect to their rights and obligations under, and strategy with respect to, restrictive covenants. Our experience includes advising and representing clients with respect to:

- Pre-Litigation avoidance and mitigation, by drafting cease and desist letters and negotiating resolutions to non-compete, non-solicitation, and other restrictive covenant disputes
- Enforcement of covenants not to compete against departing employees, franchisees, and business partners
- Handling temporary restraining order (TRO) and preliminary injunction (PI) hearings, subsequent litigation, and trials in state and federal courts

Antitrust

Antitrust claims and investigations require smart, aggressive advocacy by experienced counsel. Failure to understand the full spectrum of issues can result in adverse outcomes including treble damages and injunctive relief, that can seriously affect the commercial viability of a business.

Members of our Antitrust Group have participated in trials, both civil and criminal, of antitrust cases and have counseled and presented witnesses in grand jury proceedings. The cases handled have varied as to industry - from high tech to

- We have a diverse range of clients from individuals to local, regional and national firms, and include international *Fortune* 100 companies.

insurance - and size of client - from individuals to Fortune 500 companies. The cases have also involved a wide range of products and services ranging from manufactured products to healthcare.

In addition to representation of clients in civil and criminal litigation, members of the practice group engaged, over many years, in counseling business clients with regard to compliance with the antitrust laws, including the perils of distribution law, communications with competitors, compliance with the Hart-Scott-Rodino Act and the various problems that arise between competitors at all levels of the chain of distribution.

While most members of the antitrust group are experienced in litigation and trial work, others are primarily business and transactional lawyers who confront antitrust issues in the handling of mergers and acquisitions, and when counseling distributors and manufacturers.

Commercial Arbitration

When commercial disputes are subject to arbitration, it is critical to have experienced counsel at your side. With deep understanding of the arbitration process, familiarity with the arbitrators and experience arbitrating dozens of matters through to final award, our lawyers can guide you through what may be unfamiliar territory. We understand the differences between arbitration and litigation and know how to approach this dispute resolution process to achieve the best results for clients.

Our lawyers have arbitrated international and domestic commercial disputes as well as insurance and reinsurance matters, including those subject to the Bermuda form. Once the arbitration is complete, we follow through to the extent motions to confirm or vacate are necessary under the Federal Arbitration Act or state equivalents.

In addition to arbitrating commercial disputes, we assist clients with drafting arbitration clauses for their contracts. Our extensive arbitration experience provides insight into issues that may arise in the process —issues that can be minimized or avoided by including certain provisions in the arbitration clause itself.

White Collar Defense, Investigations and Corporate Compliance

The White Collar Defense, Investigations and Corporate Compliance group includes lawyers who have practiced as prosecutors, government enforcement lawyers and defense counsel. Representations have included criminal defense in state and federal court and appearing before numerous government regulatory agencies, including the IRS and the SEC.

Members of our group have not only tried cases as defense counsel, but have extensive experience in assisting clients to navigate through government investigations in order to avoid official action.

FOREIGN CORRUPT PRACTICES ACT (FCPA) AND BRIBERY

For years, United States corporations that conduct business abroad have been warned by lawyers and accounting firms about the focus of the federal government on its enforcement of the provisions of the Foreign Corrupt Practices Act (the FCPA). The FCPA targets payments to foreign government officials by certain defined individuals and entities for the purposes of obtaining or keeping business. Enforcement of the FCPA is not solely in the purview of the Department of Justice. For example, there have been settlements of charges jointly by the DOJ and the Securities and Exchange Commission.

Efforts to educate corporations on responsible corporate conduct have been directed at uncovering practices that could arguably be interpreted as bribery of foreign public officials. The FCPA also requires the proper maintenance of books and records of publicly traded corporations. Of course, education and awareness are only part of the mission that advisors can perform for their corporate clients. Equal attention must be paid to other important areas that are clearly influenced by the FCPA, including:

- Identifying risk areas where corporations that operate internationally should be attentive;
- Establishing FCPA compliance practices and procedures;
- Conducting internal investigations of corporations at the behest of management and its board of directors; and
- Performing due diligence examinations relating to business transactions that could implicate FCPA concerns.

Our experienced attorneys can advise organizations on how to comply with the principles articulated by the UK and that are clearly relevant to the FCPA. Our counseling includes offering assistance in developing programs that demonstrate a commitment to best corporate practices. Additionally, when the need arises, we can undertake to perform internal investigations that are conducted efficiently, but in a confidential, thorough and comprehensive manner.

GUIDANCE FOR GLOBAL BUSINESSES

Corporations that operate internationally must comply with government regulations and understand the limitations placed upon them by both the United States government and other jurisdictions. As enforcement actions concerning bribery and public corruption increase, there is a clear need for the professional guidance that our lawyers can offer.

Our group works with corporate clients to protect them against violations of these laws and to develop effective detection and investigation programs that demonstrate to governments the compliance with all applicable laws.

INTERNAL INVESTIGATIONS AND COMPLIANCE

Our lawyers also have assisted public and privately held corporations to conduct internal investigations, evaluating allegations of internal fraud, misconduct and embezzlement. As a result, we have worked closely with our corporate clients to maintain high standards of corporate integrity.

We provide legal advice to corporate clients on how to establish and improve internal compliance practices. In this regard, we counsel clients on best practices to protect corporate secrets, preserve documents and other records and grow a culture of corporate responsibility.

CASES & DEALS

White and Williams Obtains Summary Judgment for BAE Systems in Employment Dispute in Massachusetts Federal Court
12.23.21

White and Williams Obtains Injunction for Massachusetts Coalition of Police in Contract Dispute with I.U.P.A
12.5.19

White and Williams Team Prevails in Enforcement of Foreign Arbitration Award
6.4.19

White and Williams Secures Trial Victory in Breach of Contract Action
4.18.19

Massachusetts Court Affirms Judgment in Long-Running Shareholder Dispute
3.27.19

White and Williams Secures Domestic Confirmation of Six-Figure Foreign Arbitration Award
8.24.18

White and Williams Involved in Dismissal of Massachusetts False Claims Act Case
8.7.18

Massachusetts Appeals Court Affirms Dismissal of Zoning Complaint
8.3.18

White and Williams Secures Dismissal in Shareholder Derivative Case
7.3.18

Appeal Secures Seven-Figure Settlement for Philadelphia-Based Food Manufacturer
5.31.18

White and Williams Secures Dismissal of Zoning Appeal
11.8.17

White and Williams Prevails in Trial of Counterclaims in Long-Running Shareholder Dispute
6.15.17

White and Williams Secures Affirmance of Judgment in Shareholder Dispute
8.20.15

False Claims Act/Wrongful Termination Case Successfully Concluded
8.18.15

NEWS

White and Williams Welcomes New Lateral Partners and Counsel
9.26.23

Best Lawyers® Recognizes 45 White and Williams Lawyers
Firm News, 8.18.23

Congratulations to all of our 2023 Attorneys Named as Super Lawyers and Rising Stars
5.25.23

Best Lawyers® Recognizes 40 White And Williams Lawyers
Firm News, 8.18.22

Congratulations 2022 DE, MA, NJ, NY and PA Super Lawyers and Rising Stars
7.13.22

White and Williams Obtains Preliminary Injunction in Constitutional Challenge to Massachusetts Police Recertification Procedures
6.30.22

Chambers USA 2022 Ranks White and Williams as a Leading Law Firm
6.1.22

Agatha Mingos Joins White and Williams as Partner in New York City
1.12.22

White and Williams Announces 15 Lawyer Promotions
1.3.22

White and Williams Ranked in Top Tiers of "Best Law Firms"
11.5.21

White and Williams Welcomes Ten New Associates
11.4.21

White and Williams Lawyers Recognized as Super Lawyers and Rising Stars
11.1.21

Best Lawyers® Recognizes 38 White and Williams Lawyers
8.19.21

Chambers USA 2021 Ranks White and Williams as a Leading Law Firm
5.20.21

White And Williams Announces Lawyer Promotions
Three Lawyers Elected to Partnership and Eight Associates Promoted To Counsel
1.4.21

Congratulations 2020 DE, MA, NY and PA Super Lawyers and Rising Stars
11.5.20

White and Williams Earns Tier 1 Rankings from U.S. News "Best Law Firms" 2021
11.5.20

Best Lawyers® Recognizes 43 White and Williams Lawyers
8.20.20

Commercial Litigation Team Argues High-Profile FERC Pipeline Case Before En Banc D.C. Circuit Court of Appeals
5.12.20

Partner Siobhan Cole Argues in First-Ever Telephonic Hearing of the En Banc D.C. Circuit Court of Appeals
5.12.20

Chambers USA 2020 Ranks White and Williams as a Leading Law Firm
4.23.20

Gary Biehn Participates In Inaugural WTCGP "India & South Asia Club" Meeting
2.14.20

Siobhan Cole Recognized by Bloomberg as Key Player in 2020 Environmental Litigation
1.6.20

White and Williams Announces Lawyer Promotions
Two Lawyers Elected to Partnership and Eight Associates Promoted to Counsel
1.2.20

Commercial Litigation Team Earns Rehearing on FERC Pipeline Appeal Delays
12.6.19

13th Annual Coverage College Hosts Over 400 Insurance Professionals
11.1.19

White and Williams Earns Tier 1 Rankings from U.S. News "Best Law Firms" 2020
11.1.19

Congratulations 2019 DE, MA, NJ, NY and PA Super Lawyers and Rising Stars
10.17.19

Best Lawyers[®] Recognizes 29 White and Williams Lawyers
8.15.19

Nancy Conrad Honored with Anne X. Alpern Award by PBA Commission on Women in the Profession
5.22.19

Chambers USA 2019 Ranks White and Williams as a Leading Law Firm
4.26.19

Vince Barbera Named 2019 Influencer of Law by *The Philadelphia Inquirer*
3.27.19

Nancy Conrad Breaks Down Myths of Federal Practice in PA Bar News
Pennsylvania Bar News, 1.21.19

White and Williams Announces Lawyer Promotions
Six Lawyers Elected to Partnership and Four Associates Promoted to Counsel
1.2.19

White and Williams Earns Tier 1 Rankings from U.S. News "Best Law Firms" 2019

11.1.18

12th Annual Coverage College Features Current Trends and State of the Insurance Claims Industry

10.23.18

Congratulations 2018 DE, MA, NJ, NY and PA Super Lawyers and Rising Stars

10.18.18

David Marion Recognized by *Best Lawyers* as "Lawyer of the Year"

8.15.18

Best Lawyers Recognizes Twenty White and Williams Lawyers

8.15.18

Randy Maniloff Teaching Insurance Law At Temple Law School

1.15.18

White and Williams Announces Lawyer Promotions

Two Lawyers Elected to Partnership and Six Associates Promoted to Counsel

1.4.18

Congratulations 2017 DE, MA, NJ, NY and PA Super Lawyers and Rising Stars

11.11.17

White and Williams Earns National "Best Law Firm" Rankings from US News

11.1.17

Best Lawyers Recognizes Fifteen White and Williams Lawyers

8.15.17

Chambers USA 2017 Ranks White and Williams as a Leading Law Firm

5.26.17

Heidi Sorvino Joins White and Williams New York Office

4.3.17

Thomas Butler and Nicole Sullivan Join White and Williams in New York

2.27.17

Linda Perkins Joins White and Williams Philadelphia Office

2.1.17

Congratulations 2016 DE, MA, NJ, NY and PA Super Lawyers and Rising Stars

10.18.16

Coverage College Celebrates Its 10th Anniversary

9.22.16

White and Williams' Insurance Practice Receives Top Honors

9.22.16

Prominent Trial Attorney David Marion Joins White and Williams

9.6.16

White and Williams Announces the Election of Five Lawyers to the Partnership and the Promotion of Five Associates to Counsel

1.14.16

Congratulations 2015 DE, MA, NJ, NY and PA Super Lawyers and Rising Stars

10.21.15

The Ninth Annual Coverage College Features True-to-Life Case Study

10.8.15

PUBLICATIONS

Maine Legislature Passes Retail and Online Sports Betting Bill

House Rules, 4.21.22

Second Circuit Holds that COVID-19 Excused Defendant from Performance Pursuant to Force Majeure Clause

Commercial Litigation Alert, 3.30.22

Where Can Your Company Be Sued? A 2022 Update on All Things Personal Jurisdiction

General, Specific, Digital and Consent by Registration

Litigation Alert, 1.4.22

SCOTUS Decision on Autodialers Under TCPA Provides Handy Primer on Statutory Construction and Interpretation

Commercial Litigation Alert, 4.16.21

SCOTUS Scuttles Forum Shopping Litigation Tourists

Litigation Alert, 3.30.21

Fair Cross-Section Concerns Potentially Impacting Pandemic Jury Trials

The Legal Intelligencer, 1.8.21

When Actions Speak Louder Than Words: Implied Assumption of Debt of an Acquired Business

The Real Estate Finance Journal, 12.20

Key Takeaways From "Buyer Beware: Issues and Strategies for Addressing Dangers in Acquiring Financially Distressed Companies"

11.20

The Nation's First Binding Virtual Jury Trial is a Success, But Limitations Remain

Litigation Alert, 8.19.20

Hidden Costs in Bargain Acquisitions of Businesses: Exposure to Fraudulent Transfer Claims

Commercial Litigation Alert, 8.18.20

Successor Liability in the Pandemic Era

Commercial Litigation Alert, 8.5.20

Considering the Juror Pandemic Lens – Seating a Jury

Litigation Alert, 8.3.20

Real Problems with Virtual Jury Trials: The Shallowing of Jury Pools

Commercial Litigation Alert, 7.21.20

When Will We See a Resumption of Jury Trials in Philadelphia County?

The Legal Intelligencer, 7.10.20

Parties to Private Commercial Arbitrations Held Overseas May Not Be Able to Utilize US Courts to Obtain Discovery

Commercial Litigation Alert, 7.9.20

Evaluating Alternative Avenues to Verdict in the COVID-19 Legal Atmosphere

Litigation Alert, 7.7.20

Timing is (Almost) Everything: PA Supreme Court Clarifies Enforceability of Restrictive Covenants Ancillary to Employment

Commercial Litigation Alert, 6.18.20

M&A Wars Continued: Does the Seller Have an Exit Strategy?

Corporate and Securities Alert, 6.5.20

Virtual Jury Trials: The Next Wave of Remote Legal Practice

Litigation Alert, 6.4.20

Non-Signatories to Foreign Arbitration Agreements May Be Able to Compel Arbitration

Commercial Litigation Alert, 6.3.20

COVID-19 Fallout: Enforceability of Restrictive Covenants Against Furloughed and Laid Off Employees

Commercial Litigation Alert, 4.30.20

COVID-19 Supply Chain Disruption Now and Later

Industry Today, 4.13.20

M&A Litigation Rising Amidst COVID-19 Uncertainty: Considerations for Litigators and Deal-Makers

Commercial Litigation Alert, 4.10.20

Supply Chain Disruption – Before the Breach and How Best to Protect

Commercial Litigation Alert, 4.3.20

Attempt to Enjoin Governor Wolf's Shutdown Order Denied by PA Supreme Court

Commercial Litigation Alert, 3.23.20

Student Disciplinary Proceedings Revisited: A Responding Party is Not Entitled to "Quasi-Cross-Examination" in Private School Disciplinary Proceedings

Boston Bar Journal, 2.19.20

Recent Cases Shed Light on Enforcement of Foreign Arbitration Awards

The Legal Intelligencer, 1.10.19

Supreme Court Rejects "Wholly Groundless" Exception to Question of Arbitrability

Reinsurance Alert, 1.9.19

PA Supreme Court Declines to Consider Constitutional Challenge to Statutory Damages Cap Applicable to Commonwealth Agencies

Litigation Alert, 10.25.18

PA Supreme Court Dramatically Changes Scope of Qualified Immunity for Government Entities for Torts Related to "Operation of a Motor Vehicle"

Litigation Alert, 9.6.18

Supreme Court of Pennsylvania to Evaluate Seminal *Roverano* Decision

Litigation Alert, 8.20.18

Delaware Chancery Court Finds Unaffected Market Price to Be Fair Value in a Post-Dell Appraisal Decision

Taking Care of Business, 2.26.18

US Senate Joins House in Striking Down CFPB Arbitration Rule

General Commercial Litigation Alert, 10.25.17

Bureau of Consumer Financial Protection Issues New Arbitration Rule; U.S. House of Representatives Rejects It

General Commercial Litigation Alert, 8.28.17

Up To The Task

White and Williams Takes Team Approach to Insurance Litigation

The Legal Intelligencer, 11.2.16

Employment Agreement Class Action Waiver Deemed Unenforceable by Delaware Court

Labor and Employment Alert, 10.13.16

Supreme Court Clarifies Key Principles Under The Federal False Claims Act

Commercial Litigation Alert, 6.17.16

New York Supreme Court Decision Clarifies Application of Fiduciary Exception to Attorney-Client Privilege

Commercial Litigation Alert, 10.15.15

EVENTS

Coverage College 2023

Philadelphia, PA, 10.12.23

ESG, BIPA and COVID Claims and EPLI Coverage Issues

PLUS Webinar, 1.11.23

The Life and Legacy of Ruth Bader Ginsburg
PBA Diversity and Inclusion Best Practices Series Webcast, 3.29.21

Top Employment Cases as Viewed From the Bench
PBA Labor and Employment Law Section Retreat Webcast, 3.5.21

Status and Next Steps for the District Court
Bar Association of Lehigh County Webinar, 3.3.21

LGBTQ Rights: Precedent Can Be Personal
PBA Diversity Team Webcast, 2.11.21

The Impact of the 2019-20 Term of the Supreme Court of the United States on Federal Practice
PBA Midyear Meeting, 1.28.21

Buyer Beware: Issues and Strategies for Addressing Dangers in Acquiring Financially Distressed Companies
Webinar, 11.12.20

An Update on Interacting With the Federal Courts During the COVID-19 Crisis
Bar Association of Lehigh County Webinar, 10.28.20

Federal Practice Institute 2020
Pennsylvania Bar Institute Webcast, 10.23.20

Interacting With the Federal Courts During the COVID-19 Crisis
Bar Association of Lehigh County Webinar, 8.19.20

COVID-19 Insurance Program
Webinar, 8.11.20

Trial Skills from Trailblazing Women Litigators
Pennsylvania Bar Institute (Webinar), 8.6.20

US Supreme Court Roundup 2020
Pennsylvania Bar Institute Webcast, 7.20.20

Hot Topics in Civil Litigation
Pennsylvania Bar Association 2020 Midyear Meeting, 1.30.20

Pretrial Procedures
Federal Practice Institute 2019 (Pittsburgh, PA), 10.25.19

Debate: Utility of Cross-Examination of Factual Witnesses
COMBAR North American Meeting (New Orleans, LA), 5.31.19

Winning Your Case Through Depositions
Pennsylvania Bar Association Midyear Meeting (Grand Cayman, Cayman Islands), 1.31.19

A Comparison of Insurance Bad Faith Law in Pennsylvania, New Jersey and New York
NJ Institute for Continuing Legal Education Seminar (New Brunswick, NJ), 8.21.18

More Women at the Table as First Chair Trial Counsel
PBA Commission on Women in the Profession (WIP) 25th Annual Conference (Hershey, PA), 5.11.18

Navigating the Dangerous Waters of a Policy Limits Demand: Primary and Excess, Two Ships in the Night?
3.29.18

The Impact of the 2016-17 Term of the US Supreme Court and a Preview of the Top Cases for 2017-18
Pennsylvania Bar Association Midyear Meeting (Key West, FL), 1.25.18

Federal Practice: Procedures and Pointers from the Bench
Bar Association of Lehigh County (Allentown, PA), 11.30.17

Introduction to Damages and the Use of Economic Experts
Philadelphia Bar Association, Young Lawyers Division, 6.7.17

Hot Topics in Federal Practice
Pennsylvania Bar Association Annual Meeting | Pittsburgh, PA, 5.10.17