



William F. Cavanaugh, Jr.

Partner

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William Cavanaugh is a senior litigation Partner and served as Co-Chair of the Firm from 2007 to 2017. His areas of concentration include antitrust, intellectual property and commercial litigation.

A skilled trial attorney with extensive experience in both state and federal courts as well as in arbitrations, Mr. Cavanaugh has served as national and trial counsel in several large multiparty antitrust, fraud and consumer protection litigations in federal and state courts across the United States brought by private plaintiffs and State Attorneys General. His clients include major pharmaceutical, medical device and financial services companies. Mr. Cavanaugh also served as Deputy Assistant Attorney General of the United States for Civil Enforcement in the Antitrust Division of the Department of Justice in the beginning of the Obama Administration.

Mr. Cavanaugh's trial experience includes securing defense verdicts in a multi-billion dollar antitrust class action, civil fraud class actions and representing a plaintiff medical device manufacturer in back-to-back jury verdicts of \$325 million and \$271 million in patent infringement cases against two competitors. He has also successfully tried a number of Hatch-Waxman patent cases and represented a number of major health care companies in arbitrated contract disputes.

Mr. Cavanaugh is an elected Fellow of the American College of Trial Lawyers. He was recognized as one of the "Top 10 Practitioners" nationally in the area of Antitrust in *Benchmark Litigation's* 2017 guide, and was named the *Best Lawyers®* 2015 Litigation - Antitrust "Lawyer of the Year" in New York City. He is also recognized in *Chambers USA*.

With respect to his antitrust work, clients quoted in *Benchmark* have called Mr. Cavanaugh "one of the best antitrust lawyers to be found anywhere." One stated that, "Bill has an amazing depth of experience and knowledge in antitrust. From a counselling perspective, he is able to give quick guidance and recommendations, which many attorneys are hesitant to do." *Chambers USA* noted that his, "antitrust practice covers a broad spectrum of industries, including pharmaceuticals and financial services. Sources are quick to highlight his 'big trial record' and agency experience as particular strengths."

Chambers USA, also recognized Mr. Cavanaugh for his patent litigation skills. Sources "describe him as 'very accomplished' and 'a strong first chair'" in his representation of "marquee clients in business-critical patent cases." The guide states that, "[t]he 'formidable' William Cavanaugh, observers comment, is 'an excellent trial lawyer and strategist, quick on his feet and excellent at conveying points clearly and persuasively in the courtroom.' He represents a fine choice of counsel for cases in the technology and life sciences sectors."

Education

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- St. John's University School of Law (J.D., 1980)
- St. John's University (B.S., *magna cum laude*, 1977)

Admissions

- U.S. Supreme Court
- U.S. Court of Appeals, First Circuit; Second Circuit; Third Circuit; Fourth Circuit; Seventh Circuit; Ninth Circuit; Federal Circuit; District of Columbia Circuit
- U.S. District Court, Southern, Eastern, Western and Northern Districts of New York; Central District of California; Northern District of Illinois; Eastern District of Wisconsin
- New York
- California

Professional Activities

MEMBERSHIPS: Fellow, American College of Trial Lawyers; Member, American Bar Association; American Intellectual Property Law Association; Association of the Bar of the City of New York; California Bar Association; Federal Bar Council; New York State Bar Association

HONORS: Recognized in *Who's Who Legal: Litigation* 2017; Recognized in *Chambers USA* in the area of Intellectual Property: Patent; Named the *Best Lawyers*® 2015 Litigation - Antitrust "Lawyer of the Year" in New York City; Listed as a "Litigation Star" for New York in Euromoney Institutional Investor PLC's *Benchmark: America's Leading Litigation Firms and Attorneys*; Named in *Super Lawyers* in the area of Antitrust and Commercial Litigation; Named to the "Irish Legal 100"

Publications

- Contributor to www.AntitrustUpdateBlog.com
- Contributor, *Antitrust Year in Review (United States)*, ABA Section of International Law (2015; Spring 2016)
- Co-Author, "EU Pursues Questionable Antitrust Case Against Google," *Law360* (June 1, 2015)
- "5 Steps for Handling an Antitrust Subpoena or CID," *Corporate Counsel* (April 9, 2014)
- "Evaluating Pay-For-Delay Deals After FTC V. Actavis," *Law360* (June 19, 2013)

Antitrust

Below are representative antitrust matters for Mr. Cavanaugh.

- Obtained an affirmance in the Second Circuit for a Fortune 50 Pharmaceutical Company in a Robinson-Patman Act case brought by a group of retail pharmacies alleging that the defendant's pricing practices harmed their ability to compete.
- Representing a contact lens manufacturer in the defense of an antitrust lawsuit brought by a discount retailer alleging anticompetitive pricing. Also defending our client in follow-on consumer class action suits that have arisen over the alleged price-fixing of contact lenses.
- Secured summary judgment for chocolate maker in antitrust price fixing case. The Third Circuit affirmed the decision.

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- Defended a major pharmaceutical company in federal multidistrict class and individual actions, and state class actions, arising from allegedly anti-competitive pricing in the brand name prescription pharmaceutical market. The district court granted summary judgment and the Second Circuit affirmed the decision.
- Secured directed verdict on behalf of large U.S. pharmaceutical manufacturer in multi-defendant Sherman Act class action trial and argued appeal before Seventh Circuit on behalf of all manufacturers.
- Defended pharmaceutical company in antitrust jury trial involving four different plaintiff groups arising out of ANDA patent litigation and product "switching."
- Represented plaintiff in antitrust action involving alleged tying agreements for cancer drugs, including one week bench trial on preliminary injunction.
- Defending major financial institution in ongoing antitrust litigations involving network services for credit and debit cards, and ATM fees.
- Defended pharmaceutical company in antitrust cases arising out of ANDA patent litigation.
- Advised corporate and trade group clients on a wide range of antitrust issues, including distribution rights, resale pricing, promotional programs and information exchanges.

Intellectual Property

Below are representative intellectual property matters for Mr. Cavanaugh.

- Obtained judgment of non-infringement in favor of multinational software company in a multi-patent case relating to communication encryption technology. The Federal Circuit affirmed the decision.
- Secured judgment for plaintiff following bench trials on validity and inequitable conduct against ANDA applicant for drug selling \$4 billion annually.
- Secured judgment for plaintiff following jury trial on patent validity and bench trial on inequitable conduct; case settled for \$157.5 million.
- Jury verdict in favor of brand name pharmaceutical manufacturer in patent infringement case against ANDA applicant.
- Representing brand name drug manufacturer in multiple patent infringement case against ANDA and 505b(2) applicants.
- Defending brand name drug manufacturer in patent lawsuit brought by principal competitor.
- Defending surgical device manufacturer in patent lawsuit brought by competitor.
- Represented plaintiff in back-to-back jury verdicts of \$325 million and \$271 million in patent infringement actions against two competitors of medical device company.
- Defense verdict in patent infringement jury trial involving defendant's coronary stents.
- Secured six-figure settlement from competitor pharmaceutical manufacturer based on damage claim stemming from preliminary injunction which delayed client's introduction of new product.

Commercial Litigation

Below are representative commercial litigation matters for Mr. Cavanaugh.

- Successfully defended a global healthcare company in a putative RICO class action involving alleged promotion of a drug for off-label use.

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- Successfully blocked a subpoena on behalf of a global healthcare company in a Department of Consumer Affairs probe into potentially deceptive trade practices and false advertising by infant-formula makers.
- Secured dismissal of FCA qui tam against pharmaceutical manufacturer involving off-label promotion of pharmaceutical product.
- Representing companies in various false advertising matters.
- Following bench trial, secured dismissal of fraud and state consumer class action claims against pharmaceutical manufacturer.
- Defending major pharmaceutical manufacturer in multiple actions brought by State Attorneys General involving "AWP" issues, including multiple trials.
- Successfully represented medical device company in 75-day arbitration involving fraud and contract claims arising out of divestiture of product line.
- Defended former Commissioner of Baseball in copyright and fraud action in which plaintiff sought to publish unauthorized biography.
- Successfully defended celebrity in jury trial of civil assault and battery claims resulting in 20¢ judgment against client.
- Represented Office of the Commissioner of Baseball in disciplinary proceedings and successfully defended related litigations involving George Steinbrenner and others.
- Defended large brokerage firm in federal securities and RICO actions involving Eurobond offerings, master limited partnerships and other security underwritings.
- Secured reversal in the Second Circuit of district court order dismissing declaratory judgment complaint brought by a major insurer against a Fortune 50 oil company.
- Represented prominent New York law firm in fraud and malpractice lawsuit.
- Represented health care company in litigation and arbitration.