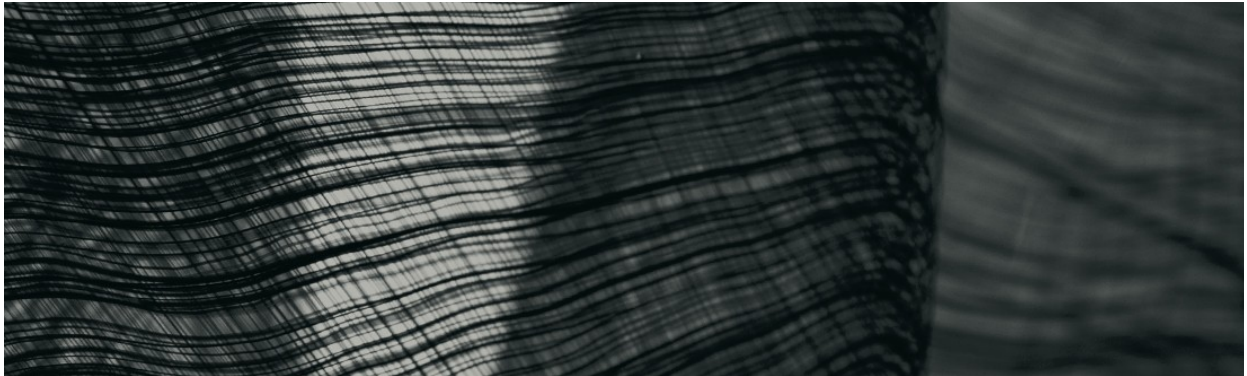


Life Sciences and Healthcare



Selendy Gay partners serve as national or lead trial counsel in cutting-edge healthcare and life sciences disputes across the country and around the world. Our firm brings to bear its deep knowledge of the two industries, combined with our courtroom and arbitration skills, when representing both plaintiffs and defendants. We grasp our clients' businesses quickly and thoroughly and weaponize that knowledge on our clients' behalf.

Life Sciences

Selendy Gay has deep roots in the life sciences industry, representing global pharmaceutical companies, biotechnology start-ups, parties in a joint venture, and major investors in the sector. Our representative engagements include:

- **Fortis Advisors**, as representatives of the former shareholders of revolutionary robotic surgery startup Auris Health, in an earnout dispute with its acquiror, Johnson & Johnson. The former shareholders alleged that Johnson & Johnson breached the merger agreement and defrauded the shareholders, resulting in its failure to achieve certain earnout milestones. After four years of litigation—including approximately 70 depositions, nine experts, and a 10-day trial—the Delaware Court of Chancery ruled on September 4, 2024, that Johnson & Johnson owed the former shareholders more than \$1.1 billion in damages. The significant 145-page decision found the former shareholders entitled to the largest earnout-related damages award in Delaware history.
- **A medical device company** subject to a U.S. Department of Justice investigation related to insurance reimbursement claims it submitted on behalf of customers covered by federal employee health plans. Through a series of presentations to the DOJ, Selendy Gay demonstrated that this was not a criminal matter and successfully had the case transferred to the civil division. The case settled on terms that were favorable to the client.
- **UMB Bank**, as Trustee for holders of Celgene contingent value rights ("CVRs"), seeking nearly \$7 billion in damages arising from Bristol Myers's failure to timely secure regulatory approval of the cancer therapies associated with the CVR payout.
- **A biotechnology company** in obtaining a judgment dismissing a complex patent infringement suit brought by a multinational pharmaceutical company that sought over \$500 million in damages.
- **A manufacturer of pharmaceutical injectables and biosimilars**, in shareholder fiduciary duty and securities litigation brought in Illinois Chancery Court and the Northern District of Illinois relating to the acquisition of a company. Defeated preliminary injunction and the case was voluntarily withdrawn.

- **Trifecta Multimedia Holdings** as plaintiff in an earnout dispute in the Delaware Court of Chancery. The lawsuit contends that the defendant, WCG Clinical, took steps immediately upon purchasing Trifecta that prevented the company from reaching revenue milestones and interfered with its ability to secure new customers, which deprived Trifecta's founder and employees of up to tens-of-millions of dollars in earnout payments. In June 2024, the court denied the majority of the defendant's motion to dismiss, ruling that we had adequately pleaded our claim for fraudulent inducement based on representations made at the time of contracting.
- **A multinational pharmaceutical company**, in seeking reargument or leave to appeal to the New York Court of Appeals from an order affirming the denial of a motion to dismiss on forum non conveniens grounds in an asbestos case brought by U.K. plaintiffs arising out of their use of cosmetics products in the U.K.
- **A leading biotechnology company**, in a contract dispute with its joint venture partner relating to liability for the costs for their product's clinical trials.
- **A dermatologic pharmaceuticals company**, in providing advice regarding potential arbitration following the sale of a patent of a topical skin treatment and the subsequent breach of the duty to reasonably market and commercialize the product.
- **A joint venture between two global pharmaceutical companies** – with milestones required for the development, licensing and marketing of a new drug – in a billion-dollar ICC arbitration.
- **A life sciences hedge fund** in an arbitration relating the departure of its founding partner.
- **A pharmaceutical company** in arbitration against a former contract partner in connection to the partner's submission of an ANDA in violation of the terms of a pre-existing Distribution and Supply Agreement.
- **The CEO of a public medical technology company** in a special committee investigation about allegations of pay inequity.
- **A large Chinese pharmaceutical company** in connection with an affiliated drug discovery start-up accused of misappropriating trade secrets.

Healthcare

Selendy Gay represents players in the healthcare sector, from insurance companies, to insurance administrators, to financial services companies investing in the industry. Our representative engagements include:

- **SaveOnSP**, which provides cost-saving strategies for self-funded employers, against a \$100 million suit by Johnson & Johnson alleging tortious interference and violations of New York's General Business law in connection with copay assistance strategies.
- **CIGNA Healthcare**, in defense against an over-\$1 billion ERISA, antitrust, and RICO suit. We won rulings dismissing provider plaintiffs and refusing class certification for subscribers alleging misuse of database for reimbursement of out-of-network claims.
- **CIGNA Healthcare** in potential contract dispute with a business partner. The client's claim stemmed from the violation of an exclusivity provision when the business partner acquired a direct competitor. The business partner's acquisition, in turn, led to an antitrust enforcement action, where the non-party client retained our firm to prevent disclosure of confidential material appearing in trial exhibits.
- **A class of over 100,000 Tennesseans** who were improperly disenrolled from TennCare, Tennessee's Medicaid program, obtaining a ruling that the program violated the Constitution and federal law.

- **Team Health Holdings**, a physician practice and hospital management company, in shareholder and appraisal litigation arising from its acquisition by the Blackstone Group for approximately \$6.1 billion. Selendy Gay defeated the shareholder litigation and settled the appraisal litigation shortly before trial.
- **Transgender South Carolinians and their families** in a suit challenging South Carolina's ban on gender-affirming healthcare.