

# GOODWIN Q+A

## WITH ANNIE RAILTON



### WHITE COLLAR SPOTLIGHT: ANNIE RAILTON

Annie Railton, a partner in Goodwin’s Securities Litigation and White Collar Defense Group, specializes in white collar defense and investigations, and has been named a Law360 “Rising Star” for her white collar work. She recently sat down to discuss some recent developments she’s been tracking, as well as share some notable moments in her career and life with her energetic four-year-old twins.

#### **Are there any trends in the government enforcement space that are of particular interest to you right now?**

The DOJ continues to make waves with new policy statements concerning its enforcement of the False Claims Act (FCA).

For one thing, about a year ago, the DOJ Granston Memo directed government lawyers to actively consider dismissing FCA cases brought by qui tam relators where appropriate. The DOJ reported “increasing use” of this authority in 2018, which has been borne out in our own practice. It will be interesting to watch how this trends in 2019.

The DOJ has also recently fine-tuned its corporate cooperation policy as it concerns executive accountability. Consistent with its 2015 Yates Memo, the DOJ has frequently emphasized the need to hold individuals accountable—including in its 2018 FCA report. In late November, though, the DOJ announced a revised corporate cooperation policy that scales back the scope of disclosure companies have to make about individuals in order to get cooperation “credit” in both criminal and civil cases. For civil cases in particular, the revised policy moves from an all or nothing approach to a variable, discretion-based

approach. It will be important for both our individual and corporate clients to see how FCA settlements play out in light of this evolving landscape.

#### **What is the biggest regulatory or legal issue facing the white collar industry?**

The opioid crisis remains a significant government focus, and recent anti-opioid initiatives may provide insight into how the government is investigating health care cases more broadly. For example, in late 2018, the U.S. Attorney’s Office in Massachusetts used data analysis to identify medical professionals with reportedly concerning opioid prescribing practices, and sent them warning letters. This kind of action—using of data analytics to identify prescribers for investigative purposes and pre-investigation engagement with prescribers—may also have an impact in other non-opioid healthcare cases.

There’s also new opioid legislation that (among other things) criminalizes kickbacks paid by all payors—including commercial or private payors, not just payments using federal funds. And again while this new law is focused on opioids, it may actually be used to reach referrals beyond addiction or recovery services, which could result

in broader prosecutorial authority to charge kickbacks involving an array of medications funded from non-governmental sources.

### What do you find yourself doing when you're not working at Goodwin?

I have twin four-year-olds, a boy and a girl who are incredibly different in many respects, but who both clearly love living in and exploring New York City as much as I do. It's been amazing to experience the city all over again with them. I've lived here for nearly 20 years, but with them I get to see everything with fresh eyes, and engage with it in a totally new way. I've also learned recently that I have to be better at teaching them about novel concepts like driveways and nature, though, so they aren't so surprised when we get out of town for the weekend.

### What's one of your most memorable cases?

I represented a former executive of Warner Chilcott, a specialty pharmaceutical company, in a criminal anti-kickback prosecution brought by the DOJ. We moved the case quickly—going to trial just seven months after our client's arrest and indictment. It was also one of the first individual prosecutions after publication of the Yates Memo, and it felt like all eyes were on our client as

we defended him. But thanks to the persistence of our team, we presented powerful evidence of our client's innocence and secured a not guilty verdict after a month-long jury trial. I don't think I'll ever forget that day, let alone that case.

### What books are on your nightstand?

My nightstand is mostly covered in treasures that my kids have left for me, but lately I've really been enjoying the travel stories in Conde Nast Traveler's "Book of Unforgettable Journeys." I have a pretty persistent wanderlust, and it's giving me so many ideas about where I'd like to go next. I'm also re-reading "One Hundred Years of Solitude," which I last read in college and which is just as transporting.

## CONTACT



### ANNIE RAILTON

Partner

+1 212 459 7434

[arailton@goodwinlaw.com](mailto:arailton@goodwinlaw.com)

