

Kelley Connolly Barnaby

Partner

202.239.3687

kelley.barnaby@alston.com

Washington, D.C. | The Atlantic Building, 950 F Street, NW | Washington, DC 20004-1404



Kelley Barnaby focuses her practice on consumer protection and unfair competition litigation and counseling, including private litigation and government investigations regarding antitrust, data privacy, False Claims Act, and CFPB enforcement matters. She has represented clients in a variety of industries, including financial services, telecommunications, and U.S. Food and Drug Administration-regulated entities.

Kelley has extensive litigation experience representing clients as both plaintiff and defendant in state and federal courts, in arbitration, and in front of state regulators. Kelley's litigation and trial experience includes preparing witnesses for deposition and jury trial, taking and defending depositions, and arguing motions. She has significant experience managing all aspects of e-discovery, from collection to review to production. Kelley was honored with the 2015 Burton Award for Legal Achievement for co-authoring "[Cybersecurity: What Directors Need to Know in an Era of Increased Scrutiny.](#)"

After law school, Kelley clerked for the Honorable John G. Heyburn II in the Western District of Kentucky. She is recognized as a Washington, D.C. *Super Lawyer* Rising Star in the field of business litigation.

Representative Experience

Commercial Litigation

- Core member of the trial team representing an international baby products company in state and federal district court litigation regarding breach of contract, Lanham Act, and unfair trade practices claims. Participated in the two-week jury trial, with primary responsibility for the jury charges and designated deposition testimony.
- Counsel for a construction materials company in a multimillion-dollar breach of contract dispute in state court. Kelley handled all aspects of discovery, motion practice, and trial preparations. The case settled favorably shortly before trial.
- Counsel for the plaintiff in a substantial theft of trade secrets case related to an industrial manufacturing process, which resulted in a unanimous arbitration award exceeding \$40 million. Core member of the trial team during a five-week hearing before a panel of three arbitrators.
- Counsel to a leading technology company in the prosecution of antitrust claims over the price-fixing of computer component parts.

Cybersecurity / Privacy Counseling and Litigation

- Represented a telecommunications company in class action litigation and several individual actions regarding alleged violations of the Telephone Consumer Protection Act (TCPA).
- Represented a Fortune 1000 company in connection with a sophisticated cyber threat actor. Advised on the crisis response effort, including domestic and international regulatory issues and insurance coverage issues.

- Represented a health care payments company regarding a system breach and advised on domestic regulatory issues.
- Represented a private university regarding a data breach and advised on domestic and international regulatory issues.
- Counsel to a major financial institution regarding potential litigation strategies for data breaches involving payment card networks.

Health Care Litigation and Enforcement

- Represented a drug and cosmetic packager as plaintiff in a breach of contract and tortious misrepresentations case filed in federal court.
- Counsel to a pharmaceutical company in a criminal investigation involving potential violations of the Federal Food, Drug, and Cosmetic Act.
- Counsel to a pharmaceutical company in responding to observations following a Food and Drug Administration (FDA) inspection.
- Counsel to a health insurance company in state bid protests and state-court appeals arising from the protests.

Financial Services Enforcement

- Counsel for several companies in the residential mortgage industry in investigations conducted by the Consumer Financial Protection Bureau (CFPB).
- Counsel to a company in the residential mortgage industry in investigations by the Department of Justice and the Department of Housing and Urban Development (HUD).

Publications & Presentations

Publications

- "Private Enforcement of the Antitrust Laws," in *Antitrust Adviser*, 5th ed., Thomson Reuters/West, 2019.
- "Change in TCPA Compliance Is on the Horizon," *Law360*, September 23, 2019.
- "INSIGHT: Your Data in the Hands of a 'Fourth Party': Cybersecurity Considerations in Discovery," *Bloomberg Law*, September 21, 2018.
- "Two Strikes Are Enough: A Review of a Recent Failure-to-File Settlement," *Federal Civil Enforcement Newsletter*, October 1, 2014.
- "Cybersecurity: What Directors Need to Know in an Era of Increased Scrutiny," *Bloomberg BNA Privacy & Security Law Report*, July 28, 2014
- "Defense Perspective on Major TCPA Developments in 2013," *Law360*, January 14, 2014.
- "How to Respond When FDA Knocks," *Law360*, September 26, 2013.
- "Dietary Supplement Manufacturer 'Likes' Post on Facebook; FDA Does Not," *Bloomberg BNA Pharmaceutical Law & Industry Report*, March 22, 2013.

Presentations

- ABA Section of Antitrust Law, "Consumer Protection Update", February 14, 2017.
- "Corporate Counseling Committee December Update," ABA Section of Antitrust Law, webinar, January 19, 2016.

Education

- Vanderbilt University (J.D., 2008)
- Dartmouth College (A.B., 2005)

Admitted to Practice

- District of Columbia
- Georgia

Related Services

Health Care Litigation | Corporate Plaintiff's Litigation | FDA/Food, Drug & Device | Antitrust | State Attorneys General Practice Team | FDA Enforcement & Litigation | Litigation | TCPA Counseling & Litigation | Financial Services Litigation | White Collar, Government & Internal Investigations | Consumer Financial Services | FDA Compliance & Enforcement