

KARMA M. GIULIANELLI

PARTNER

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Karma Giulianelli tries cases for Fortune 500 companies all over the country. With nearly 24 years of experience, her cases have included a range of bet-the-company cases, including antitrust, contract, product liability, fraud, and securities cases. Karma representations have also included numerous class actions.

Her representations have included the Canadian government in a case involving civil RICO claims against R.J. Reynolds; Micron Technology in a case against Rambus involving misconduct in the standard setting arena; E. I. DuPont de Nemours & Company in products liability trials in Florida; various pharmaceutical companies in confidential mediations and False Claims *qui tam* cases; Tyco International Ltd. in securities litigation; and Hewlett-Packard in multiple plaintiff-side antitrust cases. In addition, Karma represented Massachusetts Mutual Life Insurance, Inc. in securities cases against certain underwriter banks regarding the sale of residential mortgage-backed securities in the mid-2000s.

Karma has tried cases in almost every region of the country, including for three cases to a jury for DuPont in multiple product liability cases with exposure in the hundreds of millions. Most recently, Karma took a lead role in two antitrust trials for Sabre, a travel distribution platform, including a ten-week federal jury trial in New York brought by U.S. Airways involving an alleged conspiracy and agreements in the airline ticket distribution market. The jury rejected the alleged conspiracy claim, gave plaintiff a verdict on the remaining claim, but awarded only \$5 million in damages, resulting in the successful elimination of 99% of the alleged \$1.4 billion damages. The Second Circuit reversed the verdict for plaintiff and remanded the case for a new trial.

In the past few years, clients have selected Karma to first chair and co-first chair multiple trials, including for a large consumer appliance manufacturer (resulting in a six-week jury trial that Karma tried to verdict); OtterBox (a case with a \$100M exposure that settled on extremely favorable terms right before trial); and Bayer (a case that was set for trial in December 2019).

Karma joined the firm in 1999 after she served on the *United States v. Microsoft* trial team for the Department of Justice. Prior to joining Bartlit Beck, she was a trial lawyer in the Honors Program at the Antitrust Division of the United States Department of Justice. While at the Antitrust Division, she worked on both criminal and civil antitrust matters, including merger and non-merger matters. Karma was a member of the team investigating Microsoft's Internet-related conduct in 1996. After participating in the October 1997 case against Microsoft alleging violations of the Consent Decree, she continued as a member of the core trial team in *United States v. Microsoft*, which was filed in May 1998.

Karma has served as an Adjunct Professor of Antitrust Law at the University of Colorado, was named one of Colorado's Top Women Lawyers and recognized as one of Colorado's "Rising Stars" in 2010 and 2011. She graduated from Stanford Law School *Order of the Coif, Magna Cum Laude*.

EDUCATION & HONORS

Stanford Law School, 1996, J.D., *magna cum laude*

Order of the Coif

Notes Editor, *Stanford Law Review*

Moot Court

Vice President, Kirkwood Moot Court Board

Co-Chair, Women of Stanford Law

Santa Clara University, 1993, B.S., Political Science and Spanish, *magna cum laude*

Phi Beta Kappa

Pi Sigma Alpha, National Political Science Honor Society

Phi Sigma Iota, International Foreign Language Honor Society

Outstanding Woman Leader Award

AWARDS & RECOGNITION

Named by 5280 as the Best of the Best Top Lawyer for Antitrust – 2020

Selected as the "People's Choice" best antitrust lawyer in Colorado by her peers: "Karma Giulianelli has been practicing in antitrust law for more than two decades, and she's been recognized for her excellence in the area for nearly all of it." Law Week, Barrister's Best, 2019

Recognized as one of Colorado's "Rising Stars," "Colorado Super Lawyers, 2010 and 2011

Recognized as one of the "Top Women Lawyers of 2010," *Law Week Colorado*

Special Achievement Award for contributions to the Microsoft case

ADMISSIONS

Colorado

California

PROFESSIONAL ACTIVITIES AND COMMUNITY SERVICE

Adjunct Professor of Antitrust Law; University of Colorado Boulder

Board of Trustees, Great Outdoors Colorado, <http://www.goco.org/about-us>

Board of Directors, Big City Mountaineers, <https://www.bigcitymountaineers.org>

Coach, Lakewood High School Mock Trial.

BIG WINS

Bartlit Beck Prevails For DuPont In Benlate Case

Bartlit Beck Defeats Product Liability Claim Where Plaintiff Sought \$172 Million Plus Punitive Damages

NEWS

Second Circuit Rules in favor of Bartlit Beck Client Sabre Holdings Corp. in Antitrust Case
09.17.2019

MassMutual, Goldman Sachs reach deal in residential mortgage-backed suit
11.06.2017

PE Firm Was Behind 'Blatant' \$100M Fraud, Insurer Says
10.18.2017

Karma Giulianelli, Joe Doman and a Bartlit Beck Team Secure Dismissal of All Antitrust Claims for OtterBox
02.22.2017

MassMutual, RBS strike deal In \$235M crisis-era MBS suit
08.15.2016

Bartlit Beck wins motion to dismiss plaintiffs' damages claims in airline ticket pricing class action
07.08.2016

Bartlit Beck Wins Motion to Dismiss to Further Pare Down US Airways' Antitrust Suit
09.2015

Bartlit Beck Files ODD Price Fixing Case for Hewlett-Packard
10.2013

Karma Giulianelli Named Top Lawyer
05.2010

Bartlit Beck Prevails For DuPont In Benlate Case
12.2009

Bartlit Beck Wins Jury Verdict for DuPont

03.2005

PUBLICATIONS

The Antitrust Boundaries of Nonsolicitation Agreements
Business Law Today, 2017

When Failure to Disclose Intellectual Property in Standard Setting Can be Anticompetitive
The Standards Edge: The Golden Mean, 2007

United States v. Microsoft: Ten Years Later
Berkman Klein Center, Harvard Law School

Standard Setting and Antitrust
Speech at Stanford Law School

REPRESENTATIVE PRIVATE PRACTICE LITIGATION

Attila Csupo et al. v. Google, LLC (Sup. Ct. Ca.)

Co-lead counsel representing class of California residents who used mobile devices with the Android operating system in their claim for conversion against Google for Google's undisclosed and wrongful consumption of Plaintiffs' cellular data. In the first case of its type, successfully argued demurrer, resulting in a favorable ruling allowing case to proceed under California law. Case pending.

Mary Carr v. Google LLC (N.D.CA)

Representing class of consumers in the United States who used the Google Play Applications Store or Google Pay in connection with applications used on Android devices. The case alleges violations of the antitrust laws based on Google's contractual restrictions and other conduct, resulting in a significant overcharge on the price of applications. Case pending.

Taylor v. Google, LLC (N.D.CA)

Co-lead counsel representing residents in 49 states who used mobile devices with the Android operating system in their claim for conversion against Google for Google's undisclosed and wrongful consumption of their cellular data. Case pending.

Representation of Mortenson Construction Company

Co-led the representation Mortenson Construction Company in an investigation by the Colorado Attorney General in connection with alleged bid rigging during the expansion of the Colorado Convention Center. In the face of a novel and unprecedented interpretation of Colorado's antitrust laws, the investigation was favorably resolved with monetary compensation and a commitment to help the citizens of the State of Colorado in the midst of the COVID pandemic by employing Mortenson's unique ability to contribute to a public construction project in the wake of COVID.

YAZ®/Yasmin® Product Liability Litigation

Trial counsel for Bayer in product liability litigation alleging arterial venous thrombosis caused by the oral contraceptive Yasmin®. Case followed MDL in the Southern District of Illinois and large, coordinated state-

court proceedings in California, New Jersey, and Pennsylvania. Case settled favorably in advance of trial.

Gordon, et al. v. Sabre (S.D.N.Y.)

Represented Sabre as co-lead trial counsel in case brought as putative class action by purchasers of airline tickets. Plaintiffs claim Sabre conspired with its competitor "global distribution services" operators, Amadeus and Travelport, to require certain terms in their contracts with airlines, which allegedly caused plaintiffs to overpay for their airline tickets. Won a motion to dismiss 100% of plaintiffs' claimed damages. Class certification denied in light of claims for equitable relief only. After denial of class certification, individual settlements with the handful of former class representatives were achieved.

U.S. Airways v. Sabre (S.D.N.Y.)

Lead trial counsel for Sabre in antitrust action relating to contracts between U.S. Airways (now American Airlines) and Sabre concerning Sabre's Global Distribution System. U.S. Airways sought \$1.4 billion in trebled damages. Won summary judgment on claim for injunctive relief and over 75% of plaintiff's damages claim. Won \$6 million costs/attorneys' fees award. After a ten-week jury trial, won defense verdict on one claim and elimination of 99% of total damages plaintiff had sought on second claim. Also won denial of declaratory and injunctive relief. The Second Circuit subsequently vacated the jury's liability finding and remanded the case for a new trial. Trial date pending.

Claim for Large Consumer Goods Manufacturer (Illinois State Court, Cook County)

Hired as lead trial counsel six weeks before trial in a case with a lengthy history, alleging legal malpractice relating to advice on antidumping and countervailing duties. After two-week trial, judge permitted case to go to the jury, and jury returned defense verdict.

Sycamore IP Holdings, Inc. v. AT&T Corp. et al. (lead case) (E.D. Tex)

Represented Sycamore IP Holdings Inc. in patent litigation against AT&T Corp., Century Link, Verizon, and Level 3 in connection with a patent for a method of transparent transcoding to convert certain Ethernet signals to optical transmission signals.

Massachusetts Mutual Life Ins. Co. Residential Mortgage-Backed Securities Litigation (D. Mass.)

Represented MassMutual in its actions under the Massachusetts Uniform Securities Act, against underwriters Credit Suisse and Goldman Sachs, arising from their sales of residential mortgage-backed securities to MassMutual in 2005-2007. Credit Suisse settled after four weeks of trial, taking an additional \$79.5 million charge to earnings because of the settlement payment. Goldman Sachs settled shortly thereafter.

Foreign Trade Corp., d/b/a Technocel v. Otter Products, LLC, et al; Otter Products, LLC v. H.L. Dalis, Inc.; Otter Products, LLC v. Wireless Xcessories Group, Inc. (D. Colo.)

Lead trial counsel for OtterBox in antitrust cases brought by former distributors alleging violations of Section 1 in connection with distribution agreements and an alleged group boycott. Motion to dismiss granted in February 2017 dismissing all antitrust claims against OtterBox. Plaintiffs claimed damages in excess of \$100M on the remaining claims, which were settled on the eve of trial with Plaintiffs paying OtterBox for its own counterclaims.

Deutsche Lufthansa AG et al. v. Sabre Travel International Limited (Tarrant County, Texas)

Trial counsel for Sabre in breach of contract action relating to Lufthansa's imposition of a surcharge on customers who book tickets through Sabre. Case settled.

State Compensation Insurance Fund v. Khan et. al. (C.D. Cal.)

Trial counsel for defendants, a group of medical service providers, in RICO action brought by State Compensation Insurance Fund. Plaintiff alleged that defendants submitted fraudulent medical bills, and sought over \$100 million in damages. Secured dismissal of all claims against defendants on summary judgment.

In re Optical Disk Drives Product Antitrust Litig. (*Hewlett-Packard v. L.G. Electronics Inc. et al.*) (N.D. Cal.)

Represented plaintiff Hewlett-Packard in antitrust case involving alleged conspiracy to fix prices for ODD products. Case pending as part of MDL proceedings in Northern District of California.

Administradora v. E.I. DuPont de Nemours & Co., Inc. (Florida, Miami-Dade County State Court)

Represented DuPont in three-week jury trial of product liability action involving Benlate fungicide. Plaintiff, a large Costa Rican citrus producer, claimed \$42 million in damages. The jury found plaintiff 60% contributorily negligent and awarded substantially reduced damages, resulting in an award of a small fraction of plaintiff's claim. Post-trial cross-motions are pending.

American Airlines v. Sabre Inc. (Texas, Tarrant County State Court and N.D. Tex., 2010-2012)

Trial counsel for Sabre in breach of contract and antitrust actions relating to the display of American's flights and fares in Sabre's Global Distribution System. American claimed \$1 billion in damages. Jury trial in Texas state court. Case settled favorably during trial.

NBA Players Association v. National Basketball League

Advised the NBA Players Association regarding potential antitrust claims against the NBA during the 2011 NBA lockout.

In re Flat Panel LCD Antitrust Litigation (N.D. Cal.)

Represented Hewlett-Packard in litigation relating to claims of price fixing by several major foreign manufacturers of flat-panel LCD displays.

United States of America ex rel. Oberg v. Nelnet et al. (E.D. Va.)

Represented Nelnet in *qui tam* action under Federal False Claims Act. Relator alleged that Nelnet submitted false claims for hundreds of millions of dollars in student loan subsidies. Case settled immediately before jury selection.

RealNetworks, Inc. v. DVD CCA, et al. (N.D. Cal.)

Represented RealNetworks in preliminary injunction proceedings in U.S. District Court, Northern District of California in which movie studios claim that RealNetworks "RealDVD" product violates the Digital Millennium Copyright Act, and seek to enjoin its distribution. Case involves antitrust claims against the major movie studios based on their collective agreement to prohibit the individual authorization to copy studio content on DVDs.

Tyco International Ltd. v. Swartz (S.D.N.Y.)

Trial counsel for Tyco in case against former CFO for improperly received compensation in SDNY. Obtained order in favor of Tyco after bench trial.

Tyco International Ltd. v. Kozlowski (S.D.N.Y.)

Trial counsel for Tyco in breach of fiduciary duty and conversion suit against former CEO. Case settled.

In re Tyco Securities Litigation

Represented Tyco in multiple class action securities claims.

In re TyCom Ltd. Securities Litigation (D.N.J.)

Represented Tyco International in class action suit in which plaintiffs sought over \$1 billion in damages for alleged securities fraud. Plaintiffs alleged that Tyco violated Section 10(b) of the Securities Exchange Act and Section 11 of the Securities Act in connection with the July 2000 TyCom IPO. The case settled favorably before trial.

Overby v. Tyco International Ltd. (ERISA Litigation) (D.N.H.)

Represented Tyco International in class action suit brought under ERISA on behalf of participants in Tyco's retirement plans. Plaintiffs sought over \$1 billion in damages. Case settled favorably for Tyco.

Brazen v. Tyco International (Illinois, Cook County State Court)

Represented Tyco in class action securities law claim relating to registration statement issued by Tyco in connection with a merger with Mallinckrodt. Case settled.

Super Helechos, et al. v. E.I. DuPont de Nemours & Co., Inc. (Florida, Miami-Dade County State Court)

Represented DuPont in ten-week Miami jury trial of product liability claims involving Benlate® fungicide. Plaintiffs, twenty-seven Costa Rican farms, claimed \$396 million in damages.

Trial court entered directed verdicts for DuPont on all claims of most of the largest plaintiffs (constituting 60% of plaintiffs' total claimed damages). Jury awarded other plaintiffs a small fraction of amounts sought.

Florida court of appeals (1) affirmed directed verdicts for DuPont on claims of the largest plaintiffs, and (2) reversed all jury verdicts for other plaintiffs due to numerous trial court errors.

TicoFrut, S.A. v. E.I. DuPont de Nemours & Co., Inc. (Florida, Miami-Dade County State Court)

Represented DuPont in Miami state court jury trial of product liability claims involving the fungicide Benlate®. TicoFrut, the main citrus grower and processor in Costa Rica, sued DuPont claiming that Benlate® hurt the production of orange trees in Costa Rica. TicoFrut sought \$172 million in compensatory damages and an undisclosed amount of punitive damages. Trial lasted six weeks in Miami-Dade County Court. The jury deliberated for five hours before returning a verdict for DuPont, finding no liability.

Confidential Pharmaceutical Mediation

Represented pharmaceutical company in connection with pre-litigation mediation. Opposing party claimed substantial damages stemming from alleged antitrust violations, breach of contract, tortious interference, and fraud involving the alleged monopolization of the active ingredient used to manufacture client's medicine. Case settled on favorable terms involving a supply agreement providing present and future payments to our client of at least \$30 million.

LSI Logic Corp. v. Broadcom Corp. et al. (D. Colo. 2005)

Represented Broadcom Corporation and seven of its employees in a suit by LSI Logic alleging trade secret misappropriation, improper solicitation, breach of contract, and tortious interference. The alleged trade secrets concerned analog and mixed signal processing technology and chip design. Case resolved for \$0.

WestRM-West Risk Markets, Ltd. v. Lumbermens Mutual Casualty Company, et al. v. AIMCO, et al. (S.D.N.Y.)

Represented AIMCO in the U.S. District Court for the Southern District of New York in a case regarding liability under alleged premium finance agreements and bonds.

AIMCO v. Nat'l Union Fire Insurance of Pittsburgh, PA, et al. (D. Colo.)

Represented AIMCO in the U.S. District Court for the District of Colorado regarding an insurance coverage and breach of insurance contract dispute. Case settled.

AIMCO v. Cananwill, Inc., and Combined Specialty Insurance Company f/k/a Virginia Surety Company, Inc. (D. Colo.)

Represented AIMCO in the U.S. District Court for the District of Colorado regarding the misappropriation by a premium finance and insurance company of return premiums. Case settled.

AIMCO v. Lumbermens Mutual Casualty Company (D. Colo.)

Represented AIMCO in the U.S. District Court for the District of Colorado regarding breach of surety bond agreements. Case settled.

Lumbermens Mutual Casualty Company, et al. v. AIMCO, Ray Baldwin, and Swain and Baldwin Insurance

Represented AIMCO in the U.S. District Court for the Southern District of New York in a case regarding an alleged conspiracy in obtaining surety bond agreements. Case settled.

Cananwill, Inc. v. AIMCO, Greenwich Insurance Company, et al. (New Jersey, Morris County Superior Court)

Represented AIMCO in the Superior Court of New Jersey, Morris County Law Division, regarding alleged liability under alleged premium finance agreements. Case settled.

Micron Technology v. Rambus, Inc. (D. Del.)

Represented Micron Technology in action seeking a declaratory judgment that Rambus patents relating to Dynamic Random Access Memory (“DRAM”) chips are invalid, unenforceable and not infringed. Case also involved antitrust and fraud claims relating to Rambus misconduct in connection with industry standard-setting activities.

Attorney General of Canada v. R.J. Reynolds Tobacco Holdings, Inc., et al. (N.D.N.Y.)

Represented Canadian government in prosecution of civil RICO claim against R.J. Reynolds seeking more than \$1 billion in damages caused by tobacco companies’ scheme to smuggle tobacco into Canada and avoid Canadian taxes.

Aquilex Services, Inc. v. Frank Novak, Phil Hulsizer

Represented Aquilex in an arbitration regarding a dispute regarding a net worth purchase price adjustment.

Aquila Power Services Corporation v. Aquila, Inc.

Represented Aquila Power Services in the Southern District of Texas regarding a trademark and tradename dispute. Case settled.

ANTITRUST COUNSELING

Routinely provide confidential antitrust counseling for large corporations, including:

Represented pharmaceutical company in connection with allegations of anticompetitive conduct in the market for certain drugs, with claimed damages of \$1 billion. Case settled favorably for company, without payment of any claimed damages.

Confidential antitrust counseling to manufacturer of aircraft replacement parts regarding claims involving aftermarket and issues similar to those in *Eastman Kodak Co. v. Image Technical Services, Inc.*, 504 U.S. 451 (1992).

Confidential antitrust counseling related to collective setting and tying of interchange fees to the acceptance of credit cards.

SPEECHES AND PRESENTATIONS

Presenter, ABA Spring Meeting Mock Trial, 2019

Panelist, “Sabre Case: Two Sided Markets,” California Bar Association, 2018

Presenter, Trying Rule of Reason Case, New York Bar Association, 2017

Speaker, “Integrating Substantive Law, Strategy and Trial Tactics In a Complex Monopolization Case,” Harvard Berkman Klein Center, 2008.

Panelist, "The Intellectual Property Antitrust Nexus," University of Colorado School of Law, 2007

Presenter, "The Standard Setting Process & Patent Commitments," Stanford Law School, 2005

Presenter, "The (Sometimes Illusory) Intersection Between the Patent and Antitrust Laws," San Diego Bar Association, 2001

Presenter, "The Microsoft Experience in Antitrust Enforcement in the New Millennium," 2000

PUBLICATIONS

Co-author, *The Antitrust Boundaries of Nonsolicitation Agreements*, Business Law Today, 2018

When Failure to Disclose Intellectual Property in Standard Setting Can be Anticompetitive, Karma Giulianelli, The Standards Edge, 2004