



KATHRYN A. REILLY

Partner

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*"A formidable litigator" and
"a very creative and
solution-oriented attorney."*

*—Peer and client comments,
respectively, to Chambers
USA*

EDUCATION

New York University School of Law, J.D., 2001, *cum laude*

University of Virginia, B.A., 1998, Classics and English, with distinction

GOVERNMENT SERVICE

Judicial Law Clerk to The Honorable Julia S. Gibbons, U.S. District Court, Western District of Tennessee, and U.S. Court of Appeals, Sixth Circuit, 2001-2002

OTHER EXPERIENCE

Husch Blackwell
Jacobs Chase
WilmerHale
Cravath, Swaine & Moore,
Summer Associate

ADMISSIONS

Colorado
New York

Kathryn Reilly represents clients in complex commercial litigation, including antitrust matters and class actions in highly regulated industries. BTI Consulting named Katie to its nationwide 2019 Client Service All-Stars based on input from corporate counsel, and Chambers USA ranks her for commercial litigation in Colorado. In 2019, Law Week Colorado named Katie the "Barrister's Choice" Best Anti-Trust Lawyer after naming her the "People's Choice" for three straight years. Katie serves on the firm's five-member management committee.

HIGHLIGHTS

- Won Montana Supreme Court victory affirming pre-paid debit cards are a valid refund.
- Representing a major North American resort owner and operator in multiple consumer class actions seeking refunds following the company's closure of its ski resorts during the COVID-19 global pandemic.
- Serving as lead trial counsel for a public utility company in putative antitrust class actions in Colorado and Wisconsin alleging wholesale natural gas price manipulation and seeking damages in excess of \$2 billion.
- Serving as lead counsel to a health system to defend against a putative consumer class action in Montana challenging medical records charges.
- Representing a nation-leading cable operator in a high-stakes and high-profile antitrust dispute brought by a regional content provider.
- Obtained complete dismissal with prejudice for two real estate investment clients facing claims brought by a municipal district seeking hundreds of millions of dollars in damages. The plaintiff alleged violations of the Colorado Organized Crimes Control Act, breaches of fiduciary duties, aiding and abetting such breaches, civil conspiracy, and more.
- Successfully represented a global industrial gas company in defense of a competitor's application for preliminary and mandatory injunctive relief, ultimately facilitating resolution of a dispute valued in the hundreds of millions of dollars on highly favorable terms.

INDUSTRIES

- Healthcare
- Telecommunications
- Real Estate
- Consumer Products & Services
- Medical Devices & Pharmaceuticals

PRACTICE AREAS

- Commercial Litigation
- Antitrust & Competition
- Class Actions
- Investigations & Compliance
- Appellate

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BIOGRAPHY

Kathryn Reilly represents clients in complex commercial litigation, including antitrust matters and class actions in highly regulated industries. BTI Consulting named Katie to its nationwide 2019 Client Service All-Stars based on input from corporate counsel, and *Chambers USA* ranks her for commercial litigation in Colorado. In 2019, *Law Week Colorado* named Katie the "Barrister's Choice" Best Antitrust Lawyer after naming her the "People's Choice" for three straight years. Katie serves on the firm's five-member management committee.

Katie has favorably represented antitrust clients in matters involving monopolization, conspiracy, price fixing, exclusive dealing, and other competition-related disputes, including trade secrets and non-compete actions. She has extensive knowledge of the regulatory hurdles and obligations her clients face, and she develops effective litigation and trial strategies based on her clients' business priorities. Katie also routinely provides antitrust counseling to clients in connection with their formation of joint ventures, development of pricing policies, collaborations with competitors, and other activities potentially involving antitrust laws.

Katie's additional commercial litigation experience includes successfully representing clients in business disputes at both the trial and appellate levels. Her experience includes contract disputes, business divorces, consumer fraud, and business tort claims. Katie has extensive healthcare industry experience, as well as real estate, aviation, manufacturing, sports, and telecommunications. Katie also represents municipalities in high-stakes and often contentious disputes involving other municipal entities.

CASES

Class Actions

- Won Montana Supreme Court victory for a health system in a putative consumer class action that challenged its policy of issuing refunds in the form of pre-paid debit cards. The victory affirmed WTO's prior summary judgment win and defeated the plaintiff's new claims on appeal.
- Representing a major North American resort owner and operator in multiple consumer class actions seeking refunds following the company's closure of its ski resorts during the COVID-19 global pandemic.
- Serving as lead trial counsel for a public utility company in putative antitrust class actions in Colorado and Wisconsin alleging wholesale natural gas price manipulation and seeking damages in excess of \$2 billion.
- Serving as lead counsel to a health system to defend against a putative consumer class action in Montana challenging medical records charges.
- *Beltran v. Noonan et al.* (D. Colo. 2019) - Successfully represented multiple defendants in a \$2.1 billion federal antitrust and labor class action challenging the au pair exchange program administered by the Department of State. After four years of litigation, and just two months before trial, WTO helped to negotiate settlement for the defense group, resulting in defendants paying only 3% of the demand.

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- Successfully defended a telecommunications company in a state and federal putative class action in Washington arising out of an alleged data breach.

Antitrust & Competition

- Representing a nation-leading cable operator in a high-stakes and high-profile antitrust dispute brought by a regional content provider.
- Successfully defended a leading technology distributor against claims of civil conspiracy and trade secret misappropriation brought by former competitors, who sought tens of millions of dollars in damages. Following full discovery and a *Daubert* hearing, plaintiffs dismissed all claims on the eve of trial without any settlement or payment from WTO's client.
- Won WTO's motion to dismiss a federal antitrust action for a New Mexico healthcare trade association accused of conspiring to exclude healthcare providers from market.
- Won motions to dismiss all antitrust claims against our client, a leading technology distributor, in multiple related antitrust conspiracy lawsuits brought by former distributors.
- *EPMM Colorado v. Green Cross Colorado* (Denver Cnty. Dist. Ct. 2015) - Won reversal of a TRO that had been issued *ex parte* at the close of business on a Friday, effectively shutting down operations for a major manufacturing and distribution client, and subsequently won rejection of the injunction against WTO's client.
- Successfully represented a healthcare trade association in an \$80 million federal antitrust lawsuit alleging conspiracy among the trade association, health systems, and health insurance companies.
- *JetAway Aviation v. Board of County Commissioners of the County of Montrose, Colorado* (D. Colo.; 10th Cir.) - Won summary judgment from trial court and successfully defended that order before the Tenth Circuit in a federal antitrust lawsuit alleging conspiracy to monopolize fixed-base operations at an airport.
- *TOG & Wild Harvest v. U.S.P.S.* (D. Colo. 2012) - Successfully defended a government contractor in a federal antitrust class action and obtained early dismissal of tying and monopolization claims asserted by franchisee plaintiffs.
- Defended a health system against antitrust claims and state law claims in multiple lawsuits brought by physicians relating to failed joint ventures.
- Counseled healthcare providers regarding antitrust implications of joint venture transactions, the development of integrated networks, ACOs, managed care contracting, and price and cost surveys among competitors.

Commercial Litigation

- Obtained complete dismissal with prejudice for two real estate investment clients facing claims brought by a municipal district seeking hundreds of millions of dollars in damages. The plaintiff alleged violations of the Colorado Organized Crimes Control Act, breaches of fiduciary duties, aiding and abetting such breaches, civil conspiracy, and more.

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- Successfully represented a global industrial gas company in defense of a competitor's application for preliminary and mandatory injunctive relief, ultimately facilitating resolution of a dispute valued in the hundreds of millions of dollars on highly favorable terms.
- Won summary judgment in a high-stakes commercial dispute between technology companies. WTO represented 10 of 12 defendants and served as lead counsel for the joint defense. At issue were questions of legality and fraud related to asset management and an outstanding loan owed by a business entity that had dissolved. WTO demonstrated that its clients had been fair and above-board, and that no fraud existed.
- Successfully represented Aimco, one of the largest apartment owners in the U.S., in nationwide litigation alleging intentional torts against Airbnb. After jury selection in the first trial, Airbnb settled all litigation on terms allowing Aimco to control short-term rental activity consistent with its contract and property rights. The closely watched litigation is changing how the short-term rental industry operates.
- Won summary judgment in arbitration for a nation-leading telecom provider in an indemnification dispute with a former subcontractor whose employee filed a class action lawsuit in the Southern District of New York. Though the plaintiff was one classmember among thousands, WTO demonstrated that the subcontractor was liable to indemnify WTO's client for all of its attorneys' fees related to the class action and a pro rata share of the resulting settlement. WTO's client won \$1.5 million, plus attorney fees.
- Won a Tenth Circuit appeal for a leading U.S. railroad operator defending a district court order that dismissed a third-party intervenor's claims against WTO's client based on lack of standing to enforce an EPA consent decree.
- Successfully represented an aerospace supplier in a product liability action involving responsibility for a \$10 million cleanup effort at a rocket manufacturing facility.
- Successfully defended a Fortune 50 telecommunications conglomerate against allegations brought by a competitor that WTO's client breached FCC phone number portability regulations.
- Successfully represented a leading regional healthcare network as lead trial counsel in a high-stakes trademark dispute against a national healthcare insurance provider.
- Obtained dismissal for an insurance company client facing a civil RICO lawsuit in federal court, with risk of treble damages, for issuing a surety bond to a marijuana business as required by state regulations. The judge granted our client's motion to dismiss because the plaintiffs failed to plausibly allege injury sufficient to establish RICO standing.
- Won summary judgment for a major ski resort as plaintiff in a contract dispute involving a wireless infrastructure contractor.
- Represented one of the nation's largest healthcare franchisors in a federal court action challenging the legality of the underlying business model.

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- Successfully represented a Colorado-based healthcare system in breach of contract action involving provision of home healthcare services.
- Won a complete verdict in a bench trial in federal bankruptcy court involving claims of fraud alleged in a business divorce.
- Represented a health system and obtained favorable settlement in a breach of contract action based on the termination of a management services contract for a Colorado hospital's oncology department.
- *ThermaSol v. Gems Sensors* (Cal., Ventura Cnty. Super. Ct.) - Defended a manufacturing company against a multimillion-dollar breach of warranty claim involving allegedly defective parts and negotiated a favorable settlement of less than 10 percent of the damages claimed.
- *Hammond v. Opler* (Colo. Boulder Cnty. Dist. Ct. 2008) - Obtained a favorable verdict and monetary damages in a one-week jury trial based on an extreme and outrageous conduct claim.
- Represented the founders of a major ski resort in a two-week jury trial against a leading mountain resort company in a breach of contract action.
- Represented a Fortune 100 telecommunications company in a favorable appeal in the U.S. Court of Appeals for the D.C. Circuit involving the application of Federal Communications Commission (FCC) regulations.
- *Bristol Bay Productions v. Lampack* (Colo. Denver Dist. Ct. 2008) - Won dismissal from trial court for publisher Simon & Schuster in a case involving a movie studio's \$50 million damages claim relating to the movie Sahara and alleging false representation of popular novelist Clive Cussler's readership figures.

Municipal

- Represented the City of Aurora in a Rule 106 action against the City of Greenwood Village involving an intergovernmental agreement between the cities under which Greenwood Village transferred development authority of a real estate parcel to Aurora.
- Represented Denver International Airport in high-profile claims involving alleged bid rigging and unfair competition relating to a \$50 million terminal concessions contract.
- Represented Denver International Airport against the Regional Transportation District in a dispute over cost sharing agreements involving a new rail line serving the airport.
- Represent citizens in a lawsuit against a municipality alleging a violation of the Colorado Taxpayer Bill of Rights (TABOR).

Real Estate

- *Horizon Park Partners v. Gator Horizon Partners* (Colo. Ct. App. 2016) - Won reversal of summary judgment against our client, a real estate developer, in a dispute over a reciprocal easement, the outcome of which had a multimillion-dollar effect on the value of the property. The case was remanded to district court with orders to hear evidence at trial.

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- Obtained injunctive relief for a shopping center owner and developer requiring an adjacent property owner to renovate the shopping center common area according to the terms of a reciprocal easement agreement.
- *Scott v. Chicago Title Insurance* (Colo. Denver Cnty. Dist. Ct.) - Represented a real estate developer and obtained a \$4.8 million judgment against the title insurance company after a seven-day bench trial in a bad faith breach of title insurance action.
- *Bailey & Bailey v. Koss* (Colo. Ct. App.) - Represented a property owner in the appeal of a quiet title action before the Colorado Court of Appeals.
- Represented a major railroad company in connection with numerous right of way disputes, including quiet title and condemnation actions.

REPRESENTATIVE CLIENTS

CenturyLink
City & County of Denver
Denver International Airport
Expedia Group
SCL Health
Xcel Energy

BAR & COURT ADMISSIONS

Colorado
District of Columbia
New York
U.S. Court of Appeals, 10th Circuit
U.S. Court of Appeals, D.C. Circuit

LEGAL MEMBERSHIPS, ACTIVITIES & HONORS

Chambers USA

Band 3, General Commercial Litigation - Colorado, 2020
Band 4, General Commercial Litigation - Colorado, 2018-2019
Up and Coming, General Commercial Litigation - Colorado, 2016-2017

BTI Consulting

Client Service All-Star, 2019

International Association of Defense Counsel

The Best Lawyers in America

Commercial Litigation, 2018-2020
Antitrust Litigation, 2018-2020
Mass Tort Litigation / Class Actions - Defendants, 2020

Benchmark Litigation

Under 40 Hot List, 2016-2017

5280 Magazine

Top Lawyers
Antitrust, 2020

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Law Week Colorado

- Top Women Lawyers, 2016
- "People's Choice" Antitrust Lawyer, 2016-2018
- "Barrister's Best" Antitrust Lawyer, 2019

Denver Business Journal

- "Forty Under 40," 2012

Colorado Super Lawyers

- Antitrust Litigation, 2017-2020
- Top 100, 2018-2020
- Top 50 Women, 2018-2020

Colorado Rising Stars

- Business Litigation, 2009-2016

Institute for the Advancement of the American Legal System

- Law Firm Council, 2020
- Board of Advisors, 2020

American Health Lawyers Association

- Antitrust Practice Group

Colorado Lawyers Committee

- Board of Directors, 2008-2014
- Sixth Amendment Task Force

Colorado Judicial Institute

- Board Member

Colorado Women's Bar Association Foundation

- Board of Directors, 2014-present

Colorado Women's Bar Association

Faculty of Federal Advocates

- Counsel/Co-counsel Program

University of Colorado Law School

- Dean's Advisory Council, 2013-present

COMMUNITY MEMBERSHIPS, ACTIVITIES & HONORS

Denver Kids Inc.

- Board Chair, September 2017-2018
- Board of Directors, 2010-2019
- Executive Committee, 2012-2019
- Mentor, 2006-2014

The Women's Leadership Foundation, Colorado Women's Chamber of Commerce

- Charter Member, Board Bound Program

Denver Metro Chamber of Commerce

- Leadership Denver Program, Class of 2011

Denver Metro Chamber Leadership Foundation

- Impact Denver Program, Class of 2007

La Conexión

- Board of Directors, 2006-2007

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The Women's Foundation of Colorado
Corporate Committee, 2011-2013

ARTICLES & PRESENTATIONS

- DOJ, FTC Announce Expedited Antitrust Review and Guidance Procedure for Collaborative Efforts Aimed at Responding to COVID-19 Pandemic
- CWBA: Grit Project, March 5, 2015.