

Litigation

Kelley Dye's national litigation team focuses on successfully resolving disputes in a manner that advances your business objectives while holding a firm line on the runaway costs commonly associated with modern litigation. We work with you to develop a comprehensive, thoughtful and cost-effective strategy. At the outset, we staff matters with litigators who typically have experience in your particular industry. We have successfully handled cases for both plaintiffs and defendants, in many state and federal jurisdictions. This comprehensive perspective allows us to create and execute a more effective litigation strategy for your matters. We draw on the strengths of our litigators in New York, Washington, Chicago, Stamford, CT, and Parsippany, NJ, to handle your matters in diverse jurisdictions. Our litigators, who are sensitive to litigation budgets, work with each other and with you to efficiently manage the litigation while advancing your interests. We assemble strong, experienced trial teams that also leverage the talent of our excellent pool of associates.

Kelley Dye differs from other firms in these ways:

Leadership and Attention to the Case. You receive personalized service from the experienced litigator you choose to run the case. The partner managing the case will be involved in key events that shape the litigation long before the trial commences. That way, the partner in charge can efficiently develop and execute the litigation strategy based on a firm grasp of the facts, and a realistic assessment of the opposing party, the judge, and the dynamics of the dispute. We work closely with our clients in developing the litigation strategy and communicate our plans accordingly. If you go to trial, you will be in the hands of a trial team and lead partner who are experienced, and, perhaps equally as important, enjoy trying tough cases.

Attention to the Budget. Litigation is expensive. We apply our experience, team-building approach, and the latest technology to develop a litigation strategy that seeks to achieve the best results, while avoiding pointless discovery, unnecessary hostilities with adversaries, or contrived disputes that do nothing more than run up fees and annoy judges. Our frugality is well known: clients in complex litigations have called on us to replace existing counsel who, despite significant fees, had made little progress in advancing the client's interest. If a case goes to trial, our experience and deftness in trying cases helps to streamline tasks and control the budget. Clients are billed for meaningful tasks performed by attorneys they come to know. This work is discussed, approved and designed to stay within a realistic budget, in order to avoid unpleasant billing surprises.

Industry Focus. The firm's clients do business across all the major sectors of the economy, and include some of the world's largest financial institutions, pharmaceutical companies, technology and consumer products companies. We have represented in significant litigations JPMorgan Chase, Avon, Millennium Holdings, BP America, Polo Ralph Lauren, Merck KGaA, Bacardi, Dow Chemical, Tata Group, Alcatel-Lucent and Reader's Digest and many other major corporations. Since many industries face legal issues rooted in one or more specific areas of law, we have woven a number of specialized areas of practice throughout our industry groups, so that clients receive the insights of lawyers who are experienced and focused on their issues. Please see below for a description of the practice areas.

Financial Services

When JPMorgan Chase faced more than \$1.2 billion in exposure from non-payments arising out of Enron-

related losses, our attorneys aggressively pursued the case and secured a favorable settlement for our client after a one-month trial.

As evidenced by our representative engagements, Kelley Drye continues to successfully represent some of the world's largest financial institutions across an array of legal issues. Our attorneys are experienced representing banks, lenders, investment managers and other financial institutions in the U.S. and abroad. We handle complex and sophisticated matters covering the spectrum of claims present in today's legal landscape, from fraud and derivative shareholder suits, bankruptcy litigation, class actions, and breach of contract matters to current issues such as stock options backdating, secondary liability, predatory lending and truth in lending. We regularly handle matters involving the SEC, NASD and other regulatory and enforcement agencies on behalf of our financial services clients.

Pharmaceuticals

When two large generic drug manufacturers faced multiple lawsuits filed by U.S. state attorneys general, these leading generic pharmaceutical companies retained Kelley Drye to manage the litigations and prepare the cases for trial in federal and state jurisdictions around the country.

Pharmaceutical companies face a wide range of litigation and regulatory matters including product liability, pricing, fraud, consumer protection, class actions, federal and state investigation, antitrust and general commercial litigation. It takes a firm with depth of practice in these areas to successfully handle cases for clients operating in this industry. Kelley Drye understands the unique regulatory and complex jurisdictional and cross-border issues that arise for pharmaceutical industry clients.

Consumer Products

When Bacardi faced claims by internationally-powerful plaintiffs of unfair competition, Kelley Drye was able quickly to have the cases dismissed.

Protecting a brand name in the highly competitive environment of retail and consumer products and dealing with antitrust, unfair competition and intellectual property claims requires the guidance of skilled professionals who understand the sensitivities of brand name products and the markets on which they rely. Kelley Drye brings that knowledge and leverages its experience of working closely on a range of matters with internationally known brand name product companies.

Industrial and Manufacturing

When Millennium, the alleged successor to Glidden Paints, faced liability for property damage and bodily injury attributable to lead paint and lead pigment, the company retained Kelley Drye to bring a comprehensive action seeking insurance coverage from 34 liability insurers for the liabilities, which have been estimated to be in the billions. We engaged in a hotly-litigated forum battle between New York and Ohio, which resulted in favorable rulings from trial courts in both states and the New York Appellate Division.

Large, international manufacturers and industrial companies must deal with expensive products liability actions, environmental litigation and class action cases, as well as trademark and competition issues. When Union Carbide's Bhopal gas accident triggered more than 147 multi-billion dollar U.S. class actions suits on behalf of over 500,000 claimants, as well as numerous lawsuits in India, the company turned to Kelley Drye to coordinate its defense including consolidating most of the cases; successfully moving to dismiss the U.S. cases on forum *non conveniens* grounds; then defending and ultimately settling all the civil litigation in India.

Technology and Media

When Lucent Technologies faced a \$200 million treble damage RICO action brought by a former subcontractor, Kelley Drye swiftly and successfully moved for dismissal.

In today's fast-moving technology environment, Kelley Drye's Technology and Media litigation team stays well informed of legislation and precedent-setting cases that affect our clients' industry and operations.

Representing Foreign Companies in U.S. Litigation

Kelley Drye's extensive experience guiding international corporations facing litigation in the U.S. has earned us a reputation in the international business community. Kelley Drye understands and anticipates the unique challenges that foreign-based companies face in defending litigation in the U.S. Our publication, "Understanding Litigation in the United States: A Guide for Foreign Executives and Attorneys," explains to foreign executives the complex U.S. litigation process, with advice about the issues they need to consider. We have had particular success for clients from the following countries:

- **Korea** – We have successfully represented some of Korea's largest financial institutions, including Shinhan Bank, as they face a host of complex litigation claims in the United States.
- **Japan** – Kelley Drye has handled many different types of litigation on behalf of Japanese companies operating in the U.S. For example, in one case for a major trading company, after a four-month trial we obtained a defense verdict on antitrust claims valued at over \$1 billion.
- **India** – Our well-known practice on behalf of Indian companies benefits from the resources of our Mumbai affiliate office. Tata Group, one of India's largest and oldest conglomerates, has retained Kelley Drye to handle many major cases in the U.S. on behalf of its numerous subsidiaries.
- **Germany** – With a solid base of well-known clients such as Merck KGaA and Hochtief AG, Kelley Drye understands the particular legal issues that German companies must grapple with when doing business in the United States.

Practice Areas

Some of the specialized areas of law in which Kelley Drye has particular litigation expertise are:

- **Securities Litigation and Accounting Irregularities.** Our litigators maintain a strong understanding of the complexities and ever-changing legislative landscape that impacts our financial services client base post-Sarbanes-Oxley. Among other things, we handle SEC enforcement and litigation defense, individual and class actions, defense of negligence and securities fraud claims. We deploy our Insurance Recovery attorneys on D&O claims, and our White Collar team on criminal securities claims and insider trading.
- **Antitrust and Trade Regulation.** Representing companies facing DOJ, FTC, and EU as well as private litigation, we have successfully litigated a wide array of competition issues. We have defended numerous clients against government challenges to mergers and criminal cartel actions. We have prevailed in private antitrust litigation for both plaintiffs and defendants, including treble-damage class actions.
- **Insurance Recovery.** We are committed to the rights of corporate and individual policyholders. We litigate aggressively, as needed, and provide cost-effective and creative ways to resolve disputes and secure the proceeds to which policyholders are entitled. Members of the team have worked at the forefront of many of the major insurance coverage dispute over the last 30 years and have secured billions of dollars in insurance coverage for our clients.
- **White Collar Crime and Investigations.** Kelley Drye has many prominent white collar criminal defense attorneys who perform corporate internal investigations and represent corporations and individuals in criminal investigations, regulatory enforcement proceedings and congressional

investigations. These attorneys have represented clients in high profile corporate financial matters and with respect to political and public corruption allegations. They have substantial jury trial experience and include former Assistant U.S. Attorneys, a former federal public defender, and a former senior official in the Department of Justice. This group carefully navigates the maze of issues that arise out of government investigations or enforcement proceedings, with the objective to prevent these matters from escalating into administrative, civil, or criminal litigation. Their extensive trial experience also allows them to best position a matter if it is heading for litigation, and successfully to defend that litigation.

- **Products Liability and Toxic Torts.** We represent companies facing claims and class actions relating to consumer protection, negligence, strict liability, and breach of warranty, among others. Most notably, Kelley Drye's litigators manage large, complex cases as National Coordinating Counsel on behalf of clients with operations nationwide. We are not afraid of taking cases to trial.
- **Intellectual Property.** We handle patent, trademark, copyright and unfair competition disputes, and draw upon our legal resources in Europe and Asia to resolve problems our clients encounter with multinational fraud, counterfeiting and trade diversion. We have handled a number of precedent-setting IP cases, including the Havana Club case and the *Triantafyllos Tafas vs. United State's Patent Office* case challenging new rules on claims continuations. Clients count on us fiercely to protect their IP rights and, whenever possible, to recover damages and the expense of enforcement from their adversaries.

Our recent engagements have also involved civil RICO, employment, environmental, major construction disputes, mergers & acquisitions, pension and ERISA, securities, and trust and estates litigation.

Technology and Communication

Our litigation teams use innovative technologies and customized databases and search tools. Those permit us to streamline communications, discovery and document reviews, and to provide secure information-sharing platforms on extranet dashboards that employ sophisticated data-mining and document management techniques. We pass the cost savings on to our clients, who can enjoy these resources and comprehensive, around-the-clock access to case updates and important documents through customized, secure extranets and other innovative tools. Kelley Drye routinely controls our clients costs on large document cases by utilizing these powerful databases to perform electronic discovery tasks in-house instead of sending them to an outside vendor for processing.

Alternative Dispute Resolution

Not every dispute is resolved in the courtroom. Clients often seek alternatives to conventional litigation to resolve their disputes, so a considerable portion of our practice involves mediation, arbitration, and other alternative dispute resolution (ADR) techniques. We have had great success with early dismissal or narrowing of cases. We frequently help clients determine if and when mediation, mini-trials, arbitration or other forms of alternative dispute resolution are appropriate.

Representative Engagements

For a list of the Litigation Practice Group's engagements, please click [here](#).

Representative Clients

Financial Services

Bank of America

JPMorgan Chase

Wells Fargo

Wachovia
John Hancock
ICICI Bank
State Street Bank

Technology and Telecom

Alcatel Lucent
T-Mobile
Western Wireless
Affinity Network Incorporated
NOS Communications, Inc.
TCS

Media

Cablevision Systems Corporation
Reader's Digest
MGA Entertainment
Synapse Group/Time Inc.
Imax Corporation
Insignia Corp.

Consumer Products

Avon
Bacardi
Foot Locker
Polo Ralph Lauren
New York & Company

Pharmaceutical/Healthcare

Merck KGaA
Novartis Consumer Health, Inc.
CIGNA
LabCorp
The New York Medical College
The Archdiocese of New York

Industrial, Manufacturing and Services

Arch Chemicals Inc.
Daimler AG
BP Products North America, Inc.
Dow Chemical
Honeywell International
Hercules Incorporated
Pitney Bowes
Millenium Chemicals Inc.

International

Daimler AG
Tata Group
Hochtief AG
Shinhan Bank
Merck KGaA
Mercedes Benz

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