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Karma M. Giulianelli

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PROFESSIONAL PRACTICE

Bartlit Beck Herman Palenchar & Scott LLP, Partner

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

Special Achievement Award for contributions to the Microsoft case

Karma Giulianelli serves as trial counsel in high-profile matters throughout the United States. Her practice has focused on complex civil litigation, including a variety of contract, securities, antitrust, product liability, and fraud cases. 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; I.E. 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. Karma served as trial counsel for Sabre Holdings, Inc. in an antitrust case against US Airways (now owned by American), which was tried in an eight week jury trial in the Southern District of New York in the Fall of 2016. She previously represented Sabre in a case against American Airlines, which settled favorably during trial in Texas State Court. In addition, Karma represents Massachusetts Mutual Life Insurance, Inc. in securities cases against certain underwriter banks regarding the sale of residential mortgage backed securities in the mid-2000s.

Just in the past four years, Karma has served as counsel in five separate antitrust cases.

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. Ms. Giulianelli 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.

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BARTLIT BECK HERMAN PALENCHAR & SCOTT LLP

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*

BAR ADMISSIONS

Colorado
California

PUBLICATIONS AND TALKS

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

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

Stanford Law School, speech on Standard Setting and Antitrust.

Guest Antitrust Lecturer, University of Colorado.

Karma attended Stanford Law School from which she graduated Order of the Coif and *Magna Cum Laude*.

In 2010 Karma was named one of Colorado's Top Women Lawyers.

In 2010 and 2011, *Colorado Super Lawyers* recognized Karma as one of Colorado's "Rising Stars".

Trial Attorney, Honors Program, United States Department of Justice, Antitrust Division, 1996-1999

GOVERNMENT EXPERIENCE

United States v. Microsoft

Member of the 4 person core team investigating Microsoft's Internet-related conduct in 1996.

U.S. v. Microsoft (consent decree case) - October 1997

Consent Decree violation case against Microsoft alleging violations of the 1994 Consent Decree. Member of trial team (1997-1998).

U.S. v. Microsoft (monopolization case) - Filed May 1998

Represented the United States in the Microsoft antitrust trial in the District Court for the District of Columbia. Member of trial team. One of primary drafters of complaint and theory of the case; took key trial depositions; responsible for economic experts and preparing them to testify for the United States; one of primary drafters of proposed findings of fact and conclusions of law, which were accepted by Judge Jackson and affirmed by the D.C. Circuit.

Merger, civil and criminal investigations

Extensive work on civil merger, civil, and criminal investigations (including grand jury)

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REPRESENTATIVE PRIVATE PRACTICE LITIGATION

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

Representing 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 (Federal District Court, District of Massachusetts)

Representing MassMutual in its actions under the Massachusetts Uniform Securities Act, against underwriters Barclays, Credit Suisse, Goldman Sachs and RBS, arising from their sales of residential mortgage-backed securities to MassMutual in 2005-2007.

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

Second chair trial counsel for Sabre in antitrust action relating to contract between U.S. Airways and Sabre concerning Sabre's Global Distribution System. Won motions to dismiss monopolization and declaratory judgment claims. Won summary judgment on claim for injunctive relief and over 75% of Plaintiff's damages claim. Won \$6 million costs/attorneys' fees award. Two-month jury trial resulting in defense verdict on one claim and damages of 1% of what Plaintiff had sought on second claim.

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., (U.S. District Court, D. Colorado)

Co-lead trial counsel, with Eric Olson, 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.

Daniel Gordon et al v. Amadeus IT Group SA et al (SDNY)

Served as antitrust counsel to draft motion to dismiss putative class action alleging violation of the antitrust laws. Plaintiffs alleged that Sabre conspired with other GDSs to require certain contract provisions in their contracts with airlines. The putative class consists of all purchasers of airline tickets on the nine major airlines over the last decade. On July 6, 2016 on Sabre's motion, the court dismissed all of Plaintiffs' state law claims, precluding Plaintiffs from seeking any damages in the case.

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 pending.

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 \$25 million in damages. Secured dismissal of all claims against Defendants on summary judgment. Appeal pending.

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

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

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 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 flight and fares in Sabre's Global Distribution System. American claimed \$1 billion dollars 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 10-week Miami jury trial of product liability claims involving Benlate fungicide. Plaintiffs, 27 Costa Rican farms, claimed \$396 million 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 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. (Colo. D. Ct. 2005)

Represented defendant Broadcom Corporation and seven of its employees in 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. vs. Lumbermens Mutual Casualty Company, et al. vs. AIMCO, et al.
(S.D.N.Y.)

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

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

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

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 vs. Lumbermens Mutual Casualty Company (Colo. D. Ct.)

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 NY in a case regarding an alleged conspiracy in obtaining surety bond agreements. Case settled.

Cananwill, Inc. vs. 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. (U.S. District Court, Delaware)

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.

NEWS

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

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

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

Bartlit Beck Files ODD Price Fixing Case for Hewlett-Packard

Karma Giulianelli Named Top Lawyer

Bartlit Beck Prevails For DuPont In Benlate Case

Bartlit Beck Wins Jury Verdict for DuPont

BIG WINS

Bartlit Beck Prevails For DuPont In Benlate Case, *Super Helechos, et al. v. DuPont (2009)*

Bartlit Beck Defeats Product Liability Claim Where Plaintiff Sought \$172 Million Plus Punitive Damages, *TicoFrut v. DuPont (2005)*