FOLEY & LARDNER LLP


# Katy E. Koski

Partner

kkoski@foley.com

Boston
617.502.3242


For more than 20 years, Katy Koski has represented companies in the heavily regulated life science space, including manufacturers, distributors, and sellers in the pharmaceutical and medical device industries. She is a partner in the firm's Commercial Litigation Practice and a member of the Health Care & Life Sciences Sector.

Katy has represented life science companies in jury and bench trials in state and federal courts throughout the United States addressing complex claims involving fraud, unfair competition, product liability, intellectual property, mass torts, and false claims. In addition to representing client interests at trial, Katy counsels clients in developing and executing strategies to address and exit high-profile and "bet the company" litigation, including in multi-district litigation (MDLs) and other coordinated proceedings involving thousands of plaintiffs.

Foley's pharmaceutical practice includes representing clients in some of the largest MDLs threatening the industry. Most recently, Katy served with other Foley lawyers as national coordinating counsel representing a pharmaceutical distributor, Anda, Inc. as well as generic pharmaceutical manufacturers in defense of claims asserted in the national opioid litigation. The opioid litigation includes claims brought by state, county, and local governments, third-party payers, and private individuals in state and federal courts throughout the 50 states. Katy works with clients to conduct early assessment of the claims, the relative pressures on each company's business interests, as well as the role each company has among the many defendants named in each suit to devise appropriate litigation and settlement strategies.

In addition to the large-scale attacks on the pharmaceutical and device industries generally, Katy also counsels and represents individual companies facing product liability claims targeting key products in a client portfolio. From ADHD medication to heart valves and blood processing devices, Katy's depth of knowledge of and experience with the regulations and controls in the life science industry make her a trusted advisor to clients as they consider options in protecting their product line.

FOLEY & LARDNER LLP

For over 15 years, Katy Koski has represented life science companies at trial in state and federal courts throughout the United States. Katy developed expertise in all facets of this highly regulated industry to best understand the risks these sophisticated clients face. Pharmaceutical companies, in particular, are targeted by government and private plaintiffs who bring novel claims attempting to regulate industry practices while seeking astronomical penalties. Beginning with the “Average Wholesale Price” litigation, Katy litigated claims brought by the United States and state attorneys general, trying two jury cases and one bench trial to verdict. On behalf of pharmaceutical clients, she hung the jury in the Alabama state court and received a complete defense verdict from a Kentucky jury. These cases had a dramatic impact on industry pricing practices, which are felt today in the ongoing generic anti-trust litigation. Katy has also tried cases to juries on behalf of a drug maker as plaintiff in the context of pay for delay litigation and a medical device maker protecting its patents. More recently, in the “Nationwide Opioid Litigation,” Katy represents drug manufacturers and wholesalers against claims seeking billions of dollars to respond to the impact of the opioid abuse crisis. Katy tried a case for six months before a New York state jury and a three-month bench trial in the Northern District of California. Like the AWP litigation before it, these cases have had a dramatic impact on the industry as well as the development of new legal theories facing corporate clients.

## Representative Experience

- National and trial counsel for a pharmaceutical wholesale distributor, in nationwide litigation relating to the distribution of prescription opioid medications, including more than 1,000 cases brought by states, cities, counties, tribes, and private parties seeking recovery in connection with the opioid abuse crisis.
- National counsel for generic pharmaceutical manufacturers in national opioid litigation; federal MDL currently pending in the Northern District of Ohio.
- Served as national coordinating and trial counsel for generic pharmaceutical manufacturers in nationwide Average Wholesale Price litigation brought on behalf of individual States and the United States in state and federal courts around the country. The claims challenged drug pricing practices under state and federal tort law as well as state and federal false claims act provisions.
- Counsel for generic pharmaceutical manufacturers in claims brought by the Attorneys General of Mississippi and Louisiana, as well as a federal qui tam action, regarding federal Medicaid regulations.
- National counsel for LivaNova USA, Inc. and affiliated entities in product liability litigation alleging personal injuries caused by the use by surgeons of the legacy Mitroflow Aortic Pericardial Heart Valve in patients with congenital heart defects and other valve disorders. Obtained summary judgment on all claims pursuant to federal preemption under the Medical Device Amendments to the FDCA.
- Represent various pharmaceutical manufacturers and distributors, as regional counsel, in defense of product liability claims including failure to warn, design and manufacturing defects. Successfully defeated multiple claims on federal preemption grounds.

## Awards and Recognition

- Selected for inclusion in the *Massachusetts Super Lawyers – Rising Stars*® (2005 – 2008, 2010 – 2011, 2013 – 2016).

- *The Legal 500* recognized Katy for her work in life sciences (2016).
- Elected to membership in the International Association of Defense Counsel (IADC). This invitation-only membership is comprised of the world's leading corporate and insurance lawyers and insurance executives

### Affiliations

- Boston Bar Association
- American Bar Association
    - Women in Products Liability Subcommittee
- Defense Research Institute
    - Drug and Medical Device Section

### Thought Leadership

- Frequent writer and speaker on topics affecting FDA regulated business and products, and issues concerning litigation prevention, assessment, and management, among other topics

## Sectors

- Health Care & Life Sciences
- Medical Devices
- Pharmaceuticals

## Practice Areas

- Commercial Litigation
- False Claims Act
- Government Enforcement Defense & Investigations
- Litigation
- Product Liability

## Education

- Georgetown University Law Center (J.D., 2001)
    - Senior Editor, *Georgetown Journal of Legal Ethics*
- University of Vermont (B.A., cum laude, 1998)

## Admissions

- Massachusetts
- U.S. Court of Appeals for both the Federal and First Circuits
- United States District Court for the District of Massachusetts
- Admitted *pro hac vice* by state and federal courts throughout the United States