

Kathleen R. Hartnett

Partner



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San Francisco

Commercial Litigation

Class Action Litigation

Crisis Management

Intellectual Property Litigation

Trials

White Collar Defense and Investigations

Technology

Arbitration

Diversity, Equity and Inclusion: Strategic Counseling and Litigation

Mass Arbitration

Kathleen is a trial and appellate advocate and former senior US government lawyer. Kathleen represents plaintiffs and defendants in high-stakes litigation and investigates business-sensitive matters. Her practice spans commercial, regulatory and constitutional issues, including at the US Supreme Court. Kathleen works closely with industry leaders facing complex challenges involving litigation, policy and politics. She also has significant pro bono and public-oriented litigation experience on a wide range of topics – including LGBTQ+ equality, civil rights and racial justice, women's rights, immigrants' rights, gun violence prevention, criminal justice, animal welfare and environmental protection. In all of her representations, Kathleen is tireless in seeking to understand and efficiently achieve her clients' objectives.

Kathleen serves as co-chair of the US District Court for the Northern District of California's Lawyer Representatives Committee to the Ninth Circuit Judicial Council. She also serves on the board of the Bar Association of San Francisco's Justice & Diversity Center. In 2020 – 2021, Kathleen was a member of the Biden-Harris Transition Team.

Before returning to private practice in 2016, Kathleen spent five years in the Obama administration, where she last served as deputy assistant attorney general in the US Department of Justice's Civil Division. In this role, she oversaw the Federal Programs Branch, which represents the federal government in high-profile civil litigation. Kathleen personally led and participated in many cases of national importance, including those involving the Affordable Care Act, the Dodd-Frank Act, executive branch immigration initiatives, and the assertion of executive privilege, arguing several such matters. She supervised major cases involving the US Departments of Treasury, Health and Human Services, Homeland Security and Defense, as well as the Securities and Exchange Commission, among others. Before her time at the Department of Justice, Kathleen served as special assistant and associate counsel to President Barack Obama, where she counseled the president and other officials on constitutional, regulatory and oversight issues.

Before her government service, Kathleen was a co-founding partner of a Washington, DC, litigation boutique, where she litigated commercial disputes and represented nationwide classes of antitrust and consumer protection plaintiffs. Earlier in her career, she litigated trial and appellate cases at the DC office of a national law firm, including a \$1.4 billion fraud trial and significant constitutional and Supreme Court litigation.

Kathleen earned her JD from Harvard Law School, where she served as treasurer of the Harvard Law Review. She clerked for Judge Merrick Garland of the US Court of Appeals for the District of Columbia Circuit and for Supreme Court Justice John Paul Stevens.

Kathleen's representative matters include:

- Representing national and international companies in federal appellate litigation, including at the Supreme Court, on topics including Section 230 of the Communications Decency Act, Administrative Procedure Act review of agency regulations, class action arbitrability and securities regulation
- Defending major technology and other public companies against cutting-edge commercial and class action litigation, including under the Computer Fraud and Abuse Act, antitrust statutes and various consumer privacy and computer protection laws
- Bringing affirmative cases on behalf of companies seeking to invalidate unlawful government regulations and enforcement actions
- Conducting investigations in high-stakes matters, for boards and in response to government inquiries
- Advising major technology companies on public policy and regulatory issues
- Leading, while in government, the defense of constitutional and statutory challenges to federal actions affecting industry sectors, including technology, financial (Dodd-Frank Act), healthcare (Affordable Care Act) and education
- Engaging in extensive pro bono and public-oriented litigation work – including advocacy for LGBTQ+ rights, civil rights and racial justice, sexual assault victims, immigrants' rights, gun violence prevention, criminal justice, animal welfare and environmental protection, including in Supreme Court litigation

Government Service

- Deputy Assistant Attorney General, Department of Justice, Civil Division
- Special Assistant to the President and Associate White House Counsel

Clerkships

- Justice John Paul Stevens of the US Supreme Court
- Judge Merrick Garland of the US Court of Appeals for the DC Circuit

Education

Harvard Law School
JD, magna cum laude

Harvard College
AB, Government, magna cum laude

Admissions & Credentials

California

District of Columbia

New York

Court Admissions

US Supreme Court

US Court of Appeals for the District of Columbia Circuit

US Court of Appeals for the Second Circuit

US Court of Appeals for the Third Circuit

US Court of Appeals for the Fourth Circuit

US Court of Appeals for the Fifth Circuit

US Court of Appeals for the Ninth Circuit

US Court of Appeals for the Tenth Circuit

US Court of Appeals for the Eleventh Circuit

US Court of Appeals for the Federal Circuit

US District Court for the Northern District of California

US District Court for the Central District of California

US District Court for the Eastern District of California

US District Court for the Southern District of California

US District Court for the District of Minnesota