



M. Keith Kapp

Partner

Raleigh, NC

P: 919.981.4024

F: 919.981.4300

kkapp@williamsmullen.com



Keith Kapp represents businesses, ranging from multi-national to private or family-owned enterprises, in connection with their commercial litigation and regulatory needs. He advises clients on the laws of contract, shareholder rights, antitrust, franchise relations, warranty, consumer protection, unfair trade practices and various regulatory statutes. As a member of the Commercial Arbitration Panel of the American Arbitration Association, Keith also provides arbitration services. He is a former vice chairman of the firm's board of directors.

Keith has an extensive appellate practice arising in part from his service as a law clerk to Chief Judge Earl Vaughn of the North Carolina Court of Appeals and Justice J. Frank Huskins of the North Carolina Supreme Court. He has substantial experience in alcoholic beverage distribution and regulation, franchisee-franchisor relationships and businesses regulated by the North Carolina Utilities Commission, such as electric wholesale generators, co-generation operations and water companies.

Keith served as president of the North Carolina State Bar for the 2012-2013 term. He previously served as Wake County judicial district councilor from 2000 to 2009 and as chairman of the North Carolina State Bar Ethics Committee from 2006 to 2008. Keith is a member of the Antitrust and Administrative Law sections of the North Carolina Bar Association and currently serves on the Professionalism Committee. He is a member of the North Carolina Association of Defense Attorneys and the Antitrust and Forum on Franchising sections of the American Bar Association. He is also a member and past president of the Wake County Bar Association. In addition, he is past president of the Raleigh Executives Club and Raleigh Little Theatre. Keith is a trustee of the Moravian Ministries Foundation and co-chaired the First Night Raleigh 2000 celebration.

Keith has been recognized as a leading litigation attorney by *Chambers USA* (2017-present), and he is listed in *The Best Lawyers in America*® (2003-present). He is also listed in *North Carolina Super Lawyers* (2006-present), and he has been named to their Top 100 North Carolina Super Lawyers List six times, most recently in 2020. Keith has been included as part of *Business North Carolina's* "Legal Elite" (2015-present), and he was named to their "Legal Elite Hall of Fame" for Business Law in 2019.

He was named the *Best Lawyers*® Raleigh "Lawyer of the Year" for Bet-the-Company Litigation in 2017 and the "Lawyer of the Year" for Litigation-Antitrust in 2019. In addition, he has been a "Litigation Star" in North Carolina by Benchmark Litigation each year since 2010. In 2012, Keith was named to "Leaders in the Law" by *North Carolina Lawyers Weekly*. Martindale-Hubbell has rated him an AV attorney, its highest rating available.

Keith earned an A.B. degree, with honors, from the University of North Carolina and a J.D. degree, also with honors, from the University of North Carolina School of Law. He graduated as a Morehead Scholar and a member of Phi Beta Kappa.

Practice Areas

- Administrative and Regulatory Litigation
- Appellate Practice
- Complex Business Litigation
- Fiduciary Litigation
- Class Action Litigation
- Antitrust & Trade Regulation
- Franchise Litigation
- Litigation
- Energy
- Retail
- Manufacturing
- Alcoholic Beverage Control

Experience

- Represented vitamin manufacturer in state antitrust and civil action defense of one of several alleged price fixings. Participated in settlement of class action.
- Defended insurance company in class action alleging excessive reserves. The case was dismissed based on filed rate doctrine.
- Represented an insurance company in an unfair trade practice claim alleging conspiracy to establish excessive rates. Claim dismissed based on filed rate doctrine, first modern application of the doctrine in North Carolina.
- Represented a pesticide manufacturer in a case for declaratory judgment and false advertising claims under the Lanham Act arising from the Defendant's advertising that mischaracterized the qualities and effectiveness of our client's product formulation for termite control systems. The case settled under confidential terms.
- Defended pest control company against claims by property owner of breach of contract and negligence
- Defended pest control company against claims of breach of contract, negligence, gross negligence, unfair and deceptive trade practices, and fraud. Plaintiff sought compensatory, treble and punitive damages.
- Williams Mullen defended the U.S. subsidiary of a European maker of computerized furniture-making equipment sued for alleged violations of the Lanham Act, libel and other claims. Case

resolved and later appealed to Fourth Circuit Court of Appeals.

- Defended university against FERPA claim brought by the parent of a student arising from the student's performance at the university.

Education

- University of North Carolina School of Law (J.D.)
with honors
- University of North Carolina (A.B.)
with honors, Morehead Scholar, Phi Beta Kappa

Professional Affiliations

- American Bar Association
 - Member, ABA House of Delegates
 - Antitrust Section
 - Forum on Franchising Section
- North Carolina Association of Defense Attorneys
- North Carolina Bar Association
 - Administrative Law Section
 - Antitrust Section
 - Professionalism
 - Appellate Rules Committee, Former
 - Board of Governors, Former
- North Carolina State Bar
 - President, 2012-2013
 - Vice President, 2011
 - Ethics Committee Chairman, 2006 - 2008
 - Wake County Judicial District Councilor, 2000 - 2009
- Wake County Bar Association
 - President, Former

Awards

- AV-Rated by Martindale-Hubbell
- *Chambers USA* ? Litigation: General Commercial (2017-present)
- Named the Raleigh Litigation-Antitrust Litigation "Lawyer of the Year" by *The Best Lawyers in America* © (2017)
- Named the Raleigh Bet-the-Company Litigation "Lawyer of the Year" by *The Best Lawyers in America* © (2017)
- Listed in *The Best Lawyers in America* © for Bet-the-Company Litigation, Commercial Litigation, Energy Law, Legal Malpractice Law - Defendants, Legal Malpractice Law - Plaintiffs (2003-present)
- *North Carolina Super Lawyers* - "Top 100: North Carolina" (2014-2016, 2019-2020); "Top 25: Raleigh" (2020)
- Listed as a Local Litigation Star in North Carolina by *Benchmark Litigation* (2010-present)

- *Business North Carolina* - "Legal Elite," Antitrust (2015-present)
- *Business North Carolina* - "Legal Elite," Hall of Fame (Class of 2019)
- Named to 2018 North Carolina Pro Bono Honor Society
- American Bar Foundation ? Fellow (2013)
- Named among 2012 "Leaders in the Law" by *North Carolina Lawyers Weekly*
- Phi Beta Kappa of Wake County ? Past Director