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Q&A With Steptoe & Johnson's Karen Kahle

By

Karen E. Kahle is a member in the Wheeling, W.Va., office of Steptoe & Johnson PLLC and leader of the firm's class action and mass torts team. Kahle's practice is devoted to complex litigation, with a focus on products liability, energy, class actions and mass torts. She is a member of the American Bar Association and the Defense Research Institute. Kahle practiced pharmacy before entering law school.

Q: What is the most challenging case you've worked on, and why?

A: The most challenging case I have worked on recently is *Palisades v. Shorts*, 552 F.3d 327 (4th Cir. 2008), reh'g en banc denied, 552 F.3d. 327 (4th Cir.2009), cert. denied, *AT&T Mobility LLC v. Shorts*, 129 S. Ct. 2826 (2009).

We lost that appeal in which we argued 28 U.S.C. § 1453(b), added by CAFA, constitutes a separate removal power authorizing a third-party defendant to remove a class action. Judge [Paul] Niemeyer wrote a dissenting opinion that agreed that the plain language of § 1453(b) grants removal authority to third-party defendants. Judge Niemeyer also dissented from the denial of rehearing en banc, indicating that this is an important issue of statutory interpretation and that the majority's interpretation creates an unfortunate loophole in CAFA.

Q: What accomplishment as an attorney are you most proud of?

A: The accomplishment I am most honored to have achieved as an attorney is the opportunity to serve as chair of the West Virginia State Bar Lawyer Committee on Assistance and Intervention. I also serve on the advisory committee to the ABA Commission on Lawyer Assistance Programs. I find this work very fulfilling on both a personal and professional level; and I consider it a great honor and blessing to serve.

Q: What aspects of law in your practice area are in need of reform, and why?

A: CAFA went a long way towards reforming class action practice, but there are still some areas left untouched by that legislation and in need of reform. I would like to see reform targeted at streamlining and standardizing administration of class action settlements, from the notice phase to payment of claims.

Q: Where do you see the next wave of cases in your practice area coming from?

A: The next wave of class action cases should continue to flesh out the jurisdictional issues similar to the question in *Palisades v. Shorts*, 552 F.3d 327 (4th Cir. 2008), reh'g en banc denied, 552 F.3d 327 (4th Cir.2009), cert. denied, *AT&T Mobility LLC v. Shorts*, 129 S. Ct. 2826 (2009), of whether a third-party defendant (or counterclaim defendant) may remove a class action.

Q: Outside your own firm, name one lawyer who's impressed you and tell us why.

A: My father. He was a solo practitioner in my hometown who represented people when they needed a lawyer, regardless of whether they could pay. He also served as an assistant prosecuting attorney and while he rarely talked about that work at home, once in awhile he would mention the child abuse and neglect cases, which can be emotionally wrenching. My dedication to pro bono work for animal causes and guardian ad litem work in child abuse and neglect cases was greatly influenced by my dad.

Q: What advice would you give to a young lawyer interested in getting into your practice area?

A: Do not be afraid to roll up your sleeves and get to work on class action projects at any level. You should not consider a project to be "beneath you," as you never know where your efforts will lead. Moreover, class actions are the epitome of a "team project" so your willingness to pitch in and do whatever it takes is likely to be noticed by the leaders in your firm or group.

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