



Therese King Nohos

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Therese brings extensive regulatory compliance and litigation experience to the firm, particularly in the field of higher education. Before joining the firm, Therese served as assistant general counsel to one of the largest providers of higher and professional education in North America. Her experience working alongside administrators and faculty informs the approach she takes to counseling clients today, where she strives to balance practicality, institutional culture, and risk management while achieving compliance.

As assistant general counsel, Therese advised on a variety of enforcement and litigation matters, including civil suits regarding the False Claims Act, consumer fraud, accommodations, civil rights, Title IX and challenged student dismissals.

Notable higher education enforcement experience includes:

- responding to a multi-year federal investigation into the advertising and disclosure practices of three institutions, successfully closing two with no findings and significantly limiting the scope of claims against the third;
- negotiating settlements with the Federal Trade Commission, the U.S. Department of Education and the New York Attorney General regarding claims of false advertising and violations of Title IV regulations;
- responding to U.S. Department of Justice investigations into allegations of False Claims Act violations where the DOJ declined to intervene in pending civil suits.

She also advised on routine matters institutions face, such as federal, state and accreditation requirements, affiliation and other types of agreements, student and faculty policies, student complaint and grievance proceedings, and regulatory and accreditor disclosure requirements. She worked side-by-side with administrators to evaluate the feasibility of new educational models and to enhance existing processes, such as contract review, to reduce unnecessary risk.

In addition to her higher education experience, Therese has extensive complex litigation experience, highlighted in the Representative Matter list below. In addition, as part of her *pro bono* service to indigent clients, she has:

- argued an appeal before the Seventh Circuit Court of Appeals resulting in reconsideration of an order of removal, which ultimately led to the client's ability to remain in the United States;

- obtained a rare affirmative preliminary injunction requiring insurance carrier to fund treatment for critically ill cancer patient before trial; and
- as court-appointed counsel, successfully appealed the wrongful denial of social security benefits and, upon remand, first-chaired administrative hearing to establish right to benefits.

She continues to represent clients dealing with significant litigation matters.

Complex Litigation Matters

Advertising Investigations and Litigation. Managed response to massive, two-year long investigation by Federal Trade Commission into university advertising and disclosure practices. Defended related federal court litigation alleging false advertising, resulting in settlement for approximate cost defense for anticipated lengthy litigation. *Federal Trade Commission v. DeVry Education Group Inc.*, Case No. 2:16-cv-00579-MWF-SS (C.D. Cal.). Defended U.S. Department of Education administrative action based on similar allegations and multistate investigation by attorneys general.

Extraterritorial Reach of U.S. Disabilities Laws. Obtained summary judgment and affirmance on appeal to the Third Circuit on issue of first impression regarding applicability of U.S. accommodations laws to foreign universities eligible for U.S. federal financial aid programs. *Archut v. Ross University School of Medicine*, 580 Fed. Appx. 90 (3rd Cir. 2014).

Defeated Executive Compensation Challenge. Obtained early dismissal of two shareholder derivative actions challenging chief executive officer compensation. Secured affirmance on appeal. *Pfeiffer v. Begley*, 2015 IL App. (2d) 140271 (2015); *Donnawell v. Hamburger* 803 F.3d 912 (7th Cir. 2015).

Early Dismissal of Securities Fraud Claims. Won dismissal of federal securities law claims brought on behalf of putative class of investors alleging millions in damages. In addition to getting all claims dismissed with prejudice, we obtained a rare finding that plaintiffs had filed a frivolous complaint and would need to show cause why they should not be liable for legal fees. *Boca Raton Firefighters & Police Pension Fund v. DeVry Inc.*, 2014 WL 1847833 (N.D. Ill. May 8, 2014). Obtained an early dismissal in shareholder strike suit for Walgreens, as well. *Teamsters Affiliates Pension Fund v. Walgreen Co.*, 2010 WL 3894149 (N.D. Ill. Sept. 29, 2011).

Defeated Fiduciary Duty Claims against Venture Capitalist. Defended breach of fiduciary claims brought by founder of internet startup against investor whose investment diluted founder's ownership. After securing dismissal of federal court suit based on arbitration agreement, settled arbitration on eve of trial with plaintiff dropping its demand for \$40 million in damages and abandoning all claims.

"Busted Merger" Litigation. Represented retailer who entered into a deal involving a \$1.6 billion acquisition of a competitor shortly before the Great Recession of 2008. The case involved a three-party litigation where the competitor sought to enforce the merger agreement despite the material adverse change in market conditions and the lender sought to avoid its funding obligations. Case settled on the morning of trial on favorable terms permitting client to avoid the acquisition and maintain solvency.

ERISA Preliminary Injunction. Second-chaired preliminary injunction hearing on behalf of two pension funds against their investment manager challenging their investment decisions and seeking the return of

trust funds. Action ultimately led to favorable settlement where investment manager agreed to return funds over time.

Injunction of Continued Misappropriation of Trade Secrets. Obtained preliminary injunction on behalf of software developer against competitor who unlawfully hired developer's employees and took developer's source code in violation of federal copyright laws and Illinois trade secrets laws. *Computer Associates Int'l v. Quest Software, Inc.*, 333 F. Supp. 2d 688 (N.D. Ill. 2004).

Practice Areas

- Appellate Law
- Higher Education
- Litigation

Education

- Chicago-Kent College of Law, (J.D., 2000) *High Honors*
- Benedictine University (B.S., 1997) *cum laude*

Bar Admissions

- Illinois Supreme Court
- U.S. District Court for the Northern District of Illinois
- Trial Bar for the Northern District of Illinois
- U.S. Court of Appeals, Seventh Circuit

Memberships

- Associated Colleges of Illinois, Trustee
- National Association of College and University Attorneys

Classes, Seminars & Presentations

- "Creating Effective Accommodations Policies" - Panelist, Thomas More College Institute for Higher Education Compliance, July 24, 2018
- Consero Corporate Executive Litigation Roundtable—Panelist, Spring 2015 & Spring 2016
- "If the Government Calls, Will you be Ready?"—Panelist, November 5, 2015
- "Defensibly Downsizing Your Data – Where to Start with Records Retention & Defensible Deletion"—Panelist Association of Corporate Counsel, August 13, 2013
- John Marshall College of Law, Adjunct Professor, Legal Skills II—Spring 2008

Pro Bono Activities

- Appointed counsel to disabled woman and successfully obtained disability insurance after three-year litigation, including two appeals, *Smith v. Astrue, Commission of Social Security* (N.D. IL)
- Represented cancer patient *pro bono* in securing insurance coverage for essential bone marrow transplant under ERISA, *Dolezal v. Concert Health Plan*, Case No. 05 C 5254 (N.D. IL)
- Represented indigent, HIV-positive permanent resident in successful bid to remain in the United States (7th Cir. 2002)