



John E. Villafranco

Partner

jvillafranco@kelleydrye.com

Washington, DC
(202) 342-8423

About

John Villafranco possesses an immersive understanding of the legal and regulatory framework that governs advertising and marketing practices.

The credibility and insights John has gained over three decades at the forefront of advertising and consumer protection law have earned him the trust and respect of clients, regulators, adversaries, and adjudicators. In investigations, litigation, and administrative proceedings, his advocacy and experience help lead to efficient and favorable resolutions, while his comprehensive counseling emphasizes risk analysis and sound advertising and marketing practices. As one client told *Chambers USA: America's Leading Lawyers for Business*, John "knows the FTC and the law better than anyone." Another told the *U.S. Legal 500* that John is "arguably the best advertising lawyer in the U.S."

A member of the firm's Executive Committee, John defends and advises clients from a broad spectrum of industries when their advertising or marketing practices draw the unwanted scrutiny of the Federal Trade Commission, state attorneys general, competitors, or consumers.

John's experience has included matters involving a broad range of products and practices, with an emphasis on demonstrating that his clients' advertising and marketing practices are truthful and not otherwise deceptive. This work has included claims related to a variety of health, consumer, and telecommunications products; emerging issues involving social media influencers, online reviews, and native advertising; and allegations of consumer fraud. John has also successfully represented numerous C-suite executives when regulators have attempted to hold them individually liable.

Through his involvement in countless matters over the years, John has developed positive and productive working relationships with the investigators, regulators, and attorneys whose decisions determine whether a matter is a quickly resolved inconvenience or a disruptive and costly ordeal. His approach is proactive rather than responsive. Clients tell *Chambers USA* that John "thinks about our problems and offers tailored solutions," and that he "is an excellent advocate." He establishes and frames his client's narrative upfront and leverages his well-earned credibility to create a dynamic that limits the scope of an inquiry and establishes a foundation for a resolution that minimizes the burdens on his client.

John helped develop the self-regulatory mechanisms that resolve advertising and marketing disputes

without resorting to litigation. This work has included reviewing and proposing suggested revisions to the procedures that govern matters before the National Advertising Division (NAD), the National Advertising Review Board (NARB), and the Direct Selling Self-Regulatory Council. He continues to regularly defend clients in matters before these bodies. In 2025, John handled more NAD matters than any other attorney, representing the broadest array of industries appearing before the division that year.

In his counseling practice, John provides practical guidance and helps develop comprehensive compliance strategies on the full range of consumer protection issues. Considered an authority on a range of issues involving consumer protection law, John is a frequent speaker, author, and columnist on such matters and has conducted advertising law workshops for many *Fortune* 500 companies.

Experience

FTC and State AGs

Represented a supplement manufacturer in litigation brought by the FTC and NYAG. Case is ongoing.

Represented a major direct seller in an investigation and negotiations with the FTC arising out of alleged unfair and deceptive acts concerning its multi-level marketing program and how it represented its business opportunity. Successfully negotiated a settlement that permitted the company to continue to operate and the case was closed.

Represented a transportation compliance company in an FTC investigation related to its marketing practices. The investigation closed without an enforcement action.

Represented a drug store retailer in an FTC investigation concerning health claims made in advertising for an eye health dietary supplement. The investigation closed without an enforcement action.

Represented a personal care product company in an FTC investigation concerning alleged implied safety claims stemming from a "natural" product line. The investigation closed without an enforcement action.

Represented a cloud-based technology provider in an FTC investigation concerning the issue of third-party liability. The investigation closed without an enforcement action after staff presented a proposed complaint and order.

Negotiated successfully with the FTC staff to close an investigation regarding concussion health and safety-related claims for one of the largest manufacturers of football helmets.

Represented a multilevel marketer during an FTC Part 2 investigation of its practices. The investigation was successfully closed despite a complaint recommendation by FTC staff.

Represented a manufacturer making environmental marketing claims during an FTC Part 2 investigation. The investigation successfully closed despite a complaint proposal by FTC staff.

Represented a wireless communications company during an FTC Part 2 investigation relating to claims of unlimited service. The investigation successfully closed despite a complaint recommendation by FTC staff.

Represented a manufacturer of filter products during an FTC Part 2 investigation of its performance claims. The investigation successfully closed.

Represented two Internet service providers during a four-year investigation before the FTC of its advertising and member services practices.

Represented a wireless communications company in an investigation and eventual litigation against Attorney General Jay Nixon.

Defended the Joe Camel advertising campaign in administrative litigation that resulted in the FTC's withdrawal of its complaint.

Lanham Act Litigation

Successfully defended a dietary supplement company in a challenge to "compare-to" claims. The jury awarded money damages on our client's counterclaims.

Challenged comparative superiority claims made by an appliance manufacturer for its steam vacuum products.

Successfully defended motions for a temporary restraining order (TRO) and a preliminary injunction seeking to enjoin the launch of a leading quick service restaurant's new steak burger sandwiches.

On behalf of a telecommunications provider, obtained a preliminary injunction in federal court in Atlanta enjoining the defendant's claim regarding the speed of dial-up service.

Challenged implied superiority and establishment claims made by a competitor wireless communications company in connection with a new product launch.

Defended allegations brought by a competitor regarding a leading quick service restaurant's advertisements for its original chicken sandwich.

Consumer Class Actions

Successfully settled nationwide class action claims related to wireless carrier program changes and related disclosures.

On behalf of a wireless communications company, obtained a dismissal of a class action complaint alleging deceptive billing practices.

Consolidated more than 30 cases challenging wireless telephone carriers' FCC program cost recovery fees. All Writs Act injunction and nationwide class settlement approved and upheld on appeal over objections.

Primary jurisdiction referral to the FCC of a putative nationwide class action suit challenging a wireless carrier's recovery of number porting costs under the Communications Act. The suit was subsequently dismissed with prejudice.

Obtained a denial of class certification in an action challenging an Internet service provider's rebate fulfillment practices. Denial of the certification was upheld on appeal.

Represented two Internet service providers in several class action suits filed in Florida, California, Oklahoma, Illinois and New Jersey. Not one case advanced to class certification, let alone a decision on the merits. The California state appellate court issued an opinion in one of these cases that was especially important. That decision affirmed the LA County Superior Court decision sustaining our client's demurrer to the complaint for failure to state a cause of action for violation of the Consumer

Legal Remedies Act, Unfair Competition Laws and False and Misleading Advertising Laws.

NAD and NARB

On behalf of a *Fortune* 150 consumer products company, brought multiple successful challenges over a 12-month period against a principal competitor involving claims made in advertising for personal care products.

Successfully defended personal care product, telecommunications, pet product, dietary supplement and engine oil companies in NAD proceedings involving the assessment of product performance and establishment claims.

Challenged safety and performance claims made by a marketer of hospital disinfectant products. NAD ruled in favor of our client regarding all offending claims.

Brought multiple successful challenges on behalf of a *Fortune* 500 company against competitors involving claims made in advertising for personal care, kitchen and industrial products.

Represented the maker of an over-the-counter allergy drug in two NAD challenges regarding comparative onset-of-action claims. The NAD ruled in favor of our client on all material points.

Successfully challenged superior performance claims for 3D Televisions.

On behalf of an appliance manufacturer, challenged a competitor's unqualified germ killing and health-related cleaning and performance claims, endorsement and testimonial claims for an ultraviolet vacuum. The NAD recommended that several of the competitor's claims be discontinued and expressly qualified.

Defended one of the world's largest consumer electronics firms in a competitor challenge regarding advertising claims comparing the company's plasma televisions to competing LCD televisions. The NAD determined that our client had reasonable basis and substantiation for the principal claims, and recommended one modification.

On behalf of a chemistry trade association, successfully challenged advertising claims made by the maker of baby bottles. The claims at issue attempted to exploit a minority of scientific opinion in the sale of baby bottles that do not contain bisphenol-A. The NAD agreed that the claims were unsubstantiated and recommended that they be discontinued.

Challenged claims for a deep cleaner that it maintains the temperature of the cleaning water and has maximum suction power. NAD recommended that the claims be modified to more accurately reflect the features and capabilities of the product.

Challenged the maker of a dietary supplement on the substantiation of product performance, exclusivity and testimonial claims in advertising. The ERSP recommended that they modify diet/beauty pill advertising claims.

Challenged a competitor, initiated by our client, the maker of dietary supplement products. The basis of the inquiry was substantiation of establishment, performance, comparative and testimonial claims in advertising. The competitor voluntarily discontinued advertising and was advised about future efforts.

The NAD found in favor of our client, an Internet service provider, in a challenge that we brought concerning a competitor's advertising, which compared DSL and cable broadband service. The

challenged ads included commercials that poked fun at DSL service and employees, and claimed that all DSL plans have hefty termination fees and annual contracts. We also challenged the competitor's website claim that it had the "fastest Internet access."

Challenged advertising claims of a deep cleaner vacuum. The NAD decision in favor of the competitor was reversed by NARB in favor of our client, which was one of only two NARB reversals in the past 10 years.

Challenged a number of claims in an Internet service provider company's advertisements. The NAD agreed that these claims were misleading, and the competitor agreed to comply with all aspects of the NAD decision, except for the NAD's recommendation that the company discontinue the broadband comparisons. The competitor appealed this part of the decision, and the NARB rejected their argument, adopting our firm's arguments instead and affirming the NAD's decision.

Defended a wireless communications service provider against a competitor challenge of truth and accuracy of coverage claims promoting its wireless service. The NAD determined that our client's coverage claims were substantiated, with recommendation of a slight modification to pricing claim.

Provided substantiation for certain express and implied claims by a *Fortune* 500 athletic equipment and apparel manufacturer for sunglasses, as well as an implied comparative superiority claim, per the request of the NAD. It found that the product's performance and endorsement claims were all supported.

Challenged truth and accuracy of claims made by a wireless communications service provider regarding the scope of coverage for their in-network rate plan. The NAD recommended the company discontinue or modify its claims. In a separate action, demonstrated that our client's claim that its service was available coast-to-coast was substantiated.

Defended an appliance manufacturer in an advertising challenge that developed as a result of two consumer inquiries submitted to the Better Business Bureau alleging that the company's "steamer" did not really use steam to clean carpets. Ultimately, the NAD agreed that the use of the word "steamer" to describe an upright cleaning machine was not likely to mislead consumers, which permitted our client to continue using the term.

Successfully challenged truth and accuracy of advertisements for an Internet company's dial-up service. The NAD recommended that the company discontinue or modify its claims. It disregarded the NAD's ruling, which led to our filing in U.S. District Court for the Northern District of Georgia.

Challenged ads implying that a quick service restaurant's hamburgers contained substantially more meat than our client's burgers. After the competitor voluntarily promised to discontinue its claims, the NAD closed the case.

Honors

Named 2011 D.C. Advertising "Lawyer of the Year" by *Best Lawyers*[®].

The Best Lawyers in America (Woodward/White, Inc.), Advertising Law, 2007-2026.

Ranked by *Chambers USA* as a leading practitioner in the Advertising: NAD Proceedings area, 2022-2025, the Advertising: Litigation area, 2010-2021, and in the Privacy & Data Security area, 2008-2011.

Ranked as a leading practitioner in the Privacy & Data Security area by *Chambers Global*.

Recognized by *US Legal 500* as one of the leading lawyers in the areas of Marketing and Advertising, 2009-2025, Data Protection and Privacy, 2009-2011, and Transactional and Regulatory, 2024.

Recognized as a leading attorney in First Amendment/Media/Advertising, Antitrust Litigation practice areas by Washington D.C. *Super Lawyers*, 2010-2020 and 2023-2026.

Affiliations

American Bar Association, Antitrust Law Section, Big Data: Law and Impact Study Task Force, chair, 2018-2020

American Bar Association, Antitrust Law Section, In-House Counsel Institute, co-chair, 2018-2019

American Bar Association, Section on Antitrust Law, Big Data Task Force, chair, 2018-2020

American Bar Association, Section on Antitrust Law, Advertising Disputes & Litigation Committee, chair, 2014-present

American Bar Association, Section on Antitrust Law, Private Advertising Litigation Committee, chair, 2013-2014

American Bar Association, Section of Antitrust Law, Long Range Planning Committee, member, 2016

American Bar Association, Section of Antitrust Law, Presidential Transition Report Task Force, member, 2012-2013

American Bar Association, Section of Antitrust Law, International Task Force, member, 2012

American Bar Association, Section on Antitrust Law, Consumer Protection Committee, chair, 2006-2008

American Bar Association, Section on Antitrust Law, Comments in Advance of the Federal Trade Commission Hearings on Competition and Consumer Protection in the 21st Century, lead editor, 2018-2019

American Bar Association, Section on Antitrust Law, *Self-Regulation of Advertising in the United States: An Assessment of the National Advertising Division*, prepared by the Advertising Disputes & Litigation Committee and the Consumer Protection Committee, editorial chair, 2015

American Bar Association's *Consumer Protection Law Developments* treatise (1st ed.), editor-in-chief

Nutritional Outlook Magazine, editorial advisory board, 2014-2015 and 2020-2021

American Bar Association, Section of Antitrust Law Spring Meeting, co-chair, 2011-2012

American Bar Association, Section of Antitrust Law Consumer Protection Conference, chair, 2007, 2009

Related Services

Advertising and Marketing

Advertising Technology

Blockchain and Cryptocurrency

Consumer Class Action Defense

Telephone Consumer Protection Act (TCPA) Defense

Cybersecurity Counseling and Compliance

Dietary Supplements and Functional Foods
Direct Sales and Multi-level Marketing
Environmental, Social and Governance (ESG)
Federal Trade Commission
Food and Drug
Litigation
Manufacturing
NAD and NARB Challenges
Privacy and Information Security
State Attorneys General
Technology

Education

The Catholic University of America Columbus School of Law, J.D., 1991
Wake Forest University, B.A., 1984

Admissions

District of Columbia, 1992
New York, 1992

Courts

U.S. Court of Appeals-Second Circuit