



Richard B. Kendall

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Richard Kendall is a founding partner of Kendall Brill & Klieger. He is a highly-experienced, general commercial litigator who handles media/entertainment, class-action, securities, banking, and other commercial matters in state and federal courts, as well as arbitration settings, throughout the country.

He has served as lead trial counsel in over 30 trials in the federal and state courts, as well as in many arbitrations, and has also consulted in numerous litigations in European and Asian courts. He has also developed a substantial appellate practice, having argued many cases in the state and federal courts of appeals, as well as in state supreme courts, and twice before the United States Supreme Court.

Mr. Kendall's clients have included major companies in both the media and banking industries, as well as foreign governments. He has handled major litigation for most of the major motion picture studios, broadcast networks, and cable networks. He has also been active in advising and litigating on behalf of radio, outdoor-advertising, internet-programming, and video-game companies. In banking and securities litigation, Mr. Kendall has represented several of the largest commercial and investment banks in the country. Foreign government clients have included the Philippine government in its cases against Ferdinand and Imelda Marcos, the Bank of China and the China National Coal Development Corp., and the Brunei Investment Authority.

Mr. Kendall is a co-author of a four-volume treatise on California federal pretrial procedure, entitled *R. Kendall, R. Seeborg, M. Shartsis, and F. Smith, Federal Pretrial Civil Procedure in California* (LexisNexis, 2004). He has been recognized as a leading media & entertainment/litigation lawyer by *The Hollywood Reporter* in its annual ranking of the "100 Most Influential Lawyers In Entertainment" and has been repeatedly honored in various publications, including *American Lawyer*, *National Law Journal*, *The Recorder*, *The Best Lawyers in America*, *Chambers USA Leading Lawyers for Business*, and *Southern California Super Lawyers*. He has also been honored by the Century City Bar Association as its "Litigator of the Year."

Mr. Kendall has taught both evidence and international litigation and arbitration as an adjunct professor of law at the University of Southern California, and has served as a member of numerous bar association committees and advisory groups, including as the state bar-appointed member of the Board of Directors of the Western Center on Law and Poverty from 1989 through 1997, and on the board of directors of the Los Angeles Legal Aid Foundation from 2001 through 2007.

Mr. Kendall began his career as a law clerk for The Honorable J. Clifford Wallace, Judge of the United States Court of Appeals for the Ninth Circuit, after attending law school at the University of Southern California, where he served as Executive Notes Editor for the *Southern California Law Review*. He then served from 1980-85 as an Assistant United States Attorney in Los Angeles, and as Assistant Chief of the Criminal Division during 1983 through 1985. In December 1984, he received the John Marshall Award for Trial of Litigation, the highest award in the Justice Department for trial work, for "ingenuity in developing new forensic techniques, and outstanding trial skills."

After leaving the Justice Department in late 1985, Mr. Kendall served as a partner in three prominent law firms: Munger Tolles & Olson, from 1986-88; Shearman & Sterling, where he headed the litigation group in Los Angeles from 1988-1997; and Irell & Manella, from 1997 through April 2009. He joined Laura Brill and Robert Klieger at Kendall Brill & Klieger in May 2009.

Representative Matters

A selected listing of noteworthy publicly-reported client matters follows:

Entertainment/Intellectual Property Litigation

- Class Action Copyright Litigation
Mr. Kendall has been frequently retained to defend television networks in class actions brought by composers and music recording companies alleging copyright infringement resulting from the use of music in television programming.
- Copyright and Trademark Disputes
Mr. Kendall has handled dozens of disputes on behalf of film studios and television networks in the federal courts and foreign courts relating to the ownership or control of copyrighted materials. These have included litigations between television networks over reality-television formats, and numerous litigations between television networks or film studios and the many authors, composers, and idea-submitters who claim ownership of successful television shows and theatrical motion pictures. He has also litigated and frequently advised over the use and infringement of trademarks in entertainment properties and brand-name retail goods.
- Distribution and Vendor Arrangements
Mr. Kendall has represented most of the major film studios and producers of television programs in litigation with international free and pay television broadcasters, as well as film-processing and video-distribution vendors. He has litigated extensively for his clients over contract rights of refusal and first-negotiation, most-favored-nation clauses, terminations and renewals of long-term output agreements, insolvencies, and a variety of other major commercial disputes. These litigations have occurred in the state and federal courts of this country, and often in foreign courts in Europe and Asia as well.
- First Amendment and Municipal Litigation
Mr. Kendall has frequently represented national media companies in litigation with cities over fees and restrictions relating to outdoor advertising. He was engaged to defend a television producer in the appellate courts against charges that the producer discriminated against a pregnant actress by terminating her rather than retaining her in as the "vixen" in the cast of a prominent soap-opera. He has defended an environment activist web-site against claims of a prominent celebrity that a photograph of her personal residence infringed her privacy rights and misappropriated her publicity rights. He has also represented a television network in a grand jury investigation relating to the content of broadcasts that allegedly depict harm to animals.
- Video Game Litigation
Mr. Kendall has been retained by video game manufacturers and developers to handle litigations over rights to use likenesses and images, and in defense of consumer class actions alleging false advertising and defective products.
- Class Actions Relating to Advertising
Mr. Kendall is currently representing a major media company in defense of claims arising from text-messaging advertising. He has also represented television networks and retail stores in defense of consumer false-advertising claims.

Banking Litigation

- Consumer Actions
Mr. Kendall represented Citibank before the Los Angeles Superior Court, the California Court of Appeal, the California Supreme Court, and finally the United States Supreme Court in a successful defense of a consumer class action challenging credit card late fees. He eventually argued the matter in the United States Supreme Court and prevailed on the basis that state consumer laws were preempted by the National Bank Act. Lender Liability/Real Estate Mr. Kendall has represented some of the nation's largest banking institutions in disputes with borrowers and asset-backed insurers relating to unpaid loans and insolvencies. These disputes have ranged from domestic litigation between banks and major borrowers arising from underwater real-estate loans to international litigation over loan portfolios covering resort properties located in the U.S. and throughout the world.
- Confiscation of Bank Assets/Depositor Claims
Mr. Kendall represented two U.S.-based international banks in defending against claims of Vietnamese citizens who held deposits in those banks when Saigon fell and the banks' assets were confiscated by the Communist government.
- International Litigation and Arbitration
Brunei Litigation Mr. Kendall represented the Brunei Investment Authority and related entities in cross-border litigations stemming from Prince Jefri's management of Amedeo Group.
- China Litigation
Mr. Kendall was engaged as counsel for the Bank of China in civil prosecutions in Australia, England, Hong Kong, and California to recover funds stolen in an international fraud scheme. He also served as counsel for China National Coal Development Corp. in a dispute centering on the dissolution of coal-mining joint venture in north-eastern China. Japan Litigation Mr. Kendall represented a major film studio in litigation arising from the failure and bankruptcy of a Japanese television distributor.

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- Algeria Litigation

Mr. Kendall served as counsel for Sonatrach, the Energy Ministry of Algeria, in a breach-of-contract action to recover \$44 million in contract fees relating to hydrochemical plant constructed in Algeria.

- Philippines Litigation

For several years following the overthrow of Ferdinand Marcos. Mr. Kendall represented the Republic of the Philippines in worldwide actions to recover assets that the Marcos family had secreted in the United States, France, Switzerland, and Hong Kong.

Securities Litigation

- Entertainment Financing Litigation

Mr. Kendall represents a major television studio in securities litigation in the federal courts of New York stemming from an unsuccessful film-slate financing. He has been engaged in connection with similar litigation in England and New York involving insurance-backed film-slate financings.

- Fraud Litigation and Investigations

With his background as a federal prosecutor and commercial litigator, Mr. Kendall has been retained to conduct internal, and international, investigations into frauds committed by executives employed by domestic and multinational companies, and to defend resulting securities claims brought by shareholders or government entities.

- Mergers and Acquisitions Litigation

Mr. Kendall represented a major investment bank in the trial of a class action alleging improper payment of "greenmail" to a corporate raider.

Environmental *Pro Bono* Litigation

- Natural Resources Defense Counsel, et al. v. U.S. Navy, et al., Central District of California; Ninth Circuit Court of Appeal: Pro Bono counsel for NRDC in three separate litigations from 2005 through 2008 successfully challenging U.S. Navy failure to comply with environmental laws in use of mid-frequency sonar. Argued Winter v. NRDC case before United States Supreme Court in October 2008.

- Natural Resources Defense Counsel, et al. v. U.S. Navy, et al., Central District of California: Pro bono counsel for Natural Resources Defense Counsel and other environmental organizations in successful effort in 1994 to obtain an injunction blocking the Navy's planned detonation of explosives near the Channel Islands Marine Sanctuary.