

Philip M. Kelly
Partner



310.272.7908
pkelly@kbkfirm.com

Phil Kelly represents leading motion picture studios, broadcast and cable TV networks, production companies, entertainment and sports agencies, as well as individuals and companies outside of the entertainment industry in legal disputes in state and federal courts and arbitrations throughout the country.

Mr. Kelly regularly handles disputes related to profit participation, intellectual property licensing, copyrights, film and TV distribution agreements, film slate financing, securities and common law fraud, and breach of contract. Currently, Mr. Kelly is litigating several high-profile cases involving the financing, distribution, and accounting for large slates of motion pictures along with copyright infringement actions involving popular movies and TV shows. In addition to handling litigation matters for his clients, Mr. Kelly also provides substantial pre-litigation counseling and advice to help clients avoid litigation altogether.

Education

University of California, Los Angeles School of Law, J.D., 2000

- Order of the Coif

Pomona College, B.A., Economics, 1995

- Athletic Hall of Fame, Men's Basketball

Representative Matters

Media, Entertainment, and Intellectual Property

- Obtained complete defense victory in the trial and appellate courts for Paramount Pictures in a complex commercial dispute involving overlapping issues of entertainment and securities law.
- Secured a dismissal, a public apology, and monetary compensation for legendary composer Hans Zimmer and several companies in a copyright infringement claim concerning the Academy Award-winning film "12 Years A Slave," along with its score and soundtrack album.
- Won summary judgment for Paramount Pictures Corporation in a \$40 million lawsuit related to the distribution of a motion picture.
- Representing New Regency Productions in an \$18 million breach of contract lawsuit they filed against a group of film financiers who failed to fulfill their promise to repay certain expenses for a motion picture released in 2016.
- Representing a prominent talent agency in \$55 million lawsuit brought by producers and film financiers of motion picture projects alleging misrepresentations, fraud, and breaches of fiduciary duty.

- Currently representing NBCUniversal in a significant dispute related to the sale and distribution of a slate of films now owned by a hedge fund.
 - Represented Paramount Pictures in a putative class action related to the treatment of home video revenues on films produced prior to 1981 for purposes of reporting and payment to profit participants. The case is one of several brought against all of the major movie studios.
 - Represented Viacom and Viacom Media Networks in a copyright infringement lawsuit involving the hit TV children's show "PAW Patrol."
 - Won a dismissal of a copyright infringement claim and an award of damages for client, Viacom and Viacom Media Networks, as well as the production company and producers, in a federal lawsuit involving the hit VH1 television show "Love & Hip Hop."
 - Represented Viacom Inc. and Viacom Media Networks in an action involving numerous tort claims, including misappropriation of likeness and defamation, arising out of the production and broadcast of a reality TV program.
 - Obtained summary judgment on behalf of Creative Artist Agency (CAA) in an action asserting tort and contract claims related to a highly successful TV series.
 - Represented Wasserman Media Group in a variety of sports-and-entertainment-related disputes.
 - Represented Universal Studios in an accounting dispute with StudioCanal related to a series of films produced by Working Title Films.
 - Represented multiple defendants—a TV production company, broadcast network, and producers – in a copyright infringement action involving a hit reality TV series. Obtained summary judgment, after discovery, in favor of the clients on the copyright infringement claim.
 - Obtained summary judgment on behalf of a broadcast network facing allegations of failure to pay royalties that were made by composers of background music. Claims involved the release of an episodic TV series from the 1950s to 1970s on videocassette and DVD and the royalties for the synchronization licenses of the compositions.
 - Represented Hachette Book Group in a breach of contract action brought by William Paul Young, the author of the best-selling book, "The Shack."
 - Represented Universal Music Group before the California Supreme Court in a landmark case involving the scope of attorney-client privilege. Served as second chair on the client's subsequent trial victory.
 - Represented Screen Media Ventures in litigation with a major studio concerning the parties' former distribution relationship.
 - Represented a major studio and its broadcast network in a \$100 million breach of contract dispute with its largest affiliate group.
 - Represented Paramount Home Entertainment in a dispute with Rank DMS in an alleged breach of a "most favored nations" provision in connection with distribution services for home entertainment products.
 - Represented a world famous athlete in libel and slander litigation against a prominent magazine.
 - Achieved dismissal of Racketeer Influenced and Corrupt Organization (RICO) Act, antitrust, and commercial bribery claims brought against a videogame developer and publisher by a global sports entertainment company. The plaintiff claimed damages in excess of \$100 million in an action arising out of the alleged bribery of licensing agents and award of a video-game license to a joint venture.
 - Litigated on behalf of Activision Publishing against a video-game developer related to the development of a phenomenally popular World War II-based video game. The case included breach of contract and fraud claims by both parties, all of which were settled before trial.
 - Litigated on behalf of several leading entertainment studios in a multibillion-dollar dispute concerning licensing and distribution of pay TV services in Australia. The case, which involved a variety of contract and tort claims, settled before trial.
- ### Commercial Litigation
- Successfully defended an online toy retailer in a multi-million-dollar breach of contract dispute concerning a fulfillment of services agreement. After a two-week arbitration trial, the retailer received a favorable award.
 - Represented an aircraft manufacturer in a multi-million-dollar dispute arising out of an exclusive purchase agreement with a key supplier. After a 19-day arbitration trial, defeated claims alleging improper termination of agreement, misrepresentation, promissory fraud, and theft of intellectual property.

Recognition and Affiliations

- *Variety, Leading Lawyer*, 2018 and 2019; *Rising Star* 2016
- *Southern California Super*, 2018
- *Southern California Super Lawyer: Up-and-Coming Rising Stars*, 2008–2012
- *Inner City Law Center*, Board of Directors, 2015-present

Prior to Kendall Brill & Kelly

- **Irell & Manella, LLP, 2000–2009**
Associate

Bar and Court Admissions

- **California, 2001**
- **U.S. District Courts**
Central and Southern Districts of California
- **U.S. Court of Appeals for the Ninth Circuit**

Kendall Brill & Kelly LLP

10100 Santa Monica Blvd.
Suite 1725
Los Angeles, CA 90067

310.556.2700 Telephone
310.556.2705 Fax