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Reloading for the Future

Kendall, Brill & Kelly began a decade ago as a small group of powerhouse litigators. The firm has been careful to continue to add younger lawyers to remain at the top of the game.

By Glenn Jeffers
Daily Journal Staff Writer

Emilio Aldea / Daily Journal

From top left, Jeffrey Rutherford, Janet Levine, Robert Dugdale, and then from bottom left, Phillip Kelly, Richard Kendall, Bert Deixler

Like great sports dynasties, Richard B. Kendall understands what it takes to keep an organization like Kendall Brill & Kelly LLP at its peak: You have to reload.

"When you have a small firm, one of the things you have to think about is having generations of partners," Kendall said from the firm's main office in Century City. "We wanted more partners in their 50s who are well established. And that provides more opportunity for the younger partners to develop their own business and puts the firm on the broadest financial footing."

That focus on building a multi-generational engine of litigators has helped the firm expand steadily since Kendall and founding partner Laura W. Brill started the firm in 2009. Over the past 10 years, the first has grown into a litigation powerhouse known for its entertainment, legal malpractice, and appellate practices.

And this past May, Kendall Brill celebrated its 10-year anniversary by opening a downtown Los Angeles office.

The move is two-fold, Kendall said. The new offices on Wilshire Boulevard not only give Kendall Brill's downtown clients easier access, but also the space to accommodate the firm's newly-bolstered white collar and government investigations practice, led by former federal prosecutor Robert E. Dugdale.

"That's where the prosecutors are, that's where the courts are, and that's where the lawyers we frequently work with on cases are," said Dugdale, who spent nearly 20 years in the U.S. attorney's office. "The move was done so we could have a presence in the epicenter for white-collar crime."

The addition of Dugdale, seasoned white-collar defense lawyer Janet I. Levine and former deputy federal public defender Jeffrey H. Rutherford brings the roster up to 18, a level that illustrates the firm's careful, thoughtful approach to growth, Brill said.

"It really has been what we were hoping for, and I couldn't be happier," she said. "Each person has brought something new. And since we've done it gradually, we've had the opportunity to evolve together and integrate people before going on to the next step."

Integrating that next generation of Kendall Brill attorneys is key, Brill added. It gives the firm time to instill its core values of fierce dedication to clients while maintaining the highest level of ethical practice. It also gives younger associates time to get used to another firm tenet: You start work on Day 1.

"It's been a very busy year, but it has exceeded expectations," says Shauna E. Woods, an associate who joined the firm in May 2018.

In that year, Woods has worked on several cases, ranging from ongoing white-collar matters to pro bono work for the Inner City Law Center. In the pro bono case, Kendall Brill has paired with the law center to sue a real estate company looking to force eight low-to-mid-income, Spanish-speaking families out of a rent-controlled building in the 200 block of North Robinson Street.

In the suit, the families allege BRE Investments LLC purchased the building in 2016 and launched a campaign to harass and evict the residents. *Humberto Ramirez v. BRE Investment, LLC*, BC654921 (L.A. Super. Ct., filed Mar. 22, 2017).

"I've been in court maybe 15 times in the last five months," Woods said. "We've had depositions and motion hearings and I'm the one who's arguing those motions. Being at a smaller place, I can do more of the legwork that I wouldn't be able to do if I was at another firm."

It also helps that Woods volunteered at the law center and partner Philip M. Kelly is a board member of the nonprofit legal center. But cases like this give younger attorneys the trial experience necessary to take over larger legal battles in the future, Kelly said, which adds to the firm's appeal to clients.

"Our associates are getting the opportunities to do a very diverse set of cases, and they like that," said Kelly. "Most of them don't want to do the same case over and over. And they're gaining expertise and learning from people who have experience in different areas with different skills."

"As an associate, the best thing you can do is pick the pieces that you like from each person and add that to your repertoire as you grow and develop as a lawyer," Kelly added.

Kelly thought back to his days when he was a senior associate at Irell & Manella LLP in 2009. "I didn't do any of that [white-collar] work," he said.

But back then he was preoccupied with other matters. Kendall and Brill, both partners at the law firm, were planning to leave and start their own boutique, and they wanted Kelly to join them.

The idea to leave came from Kendall, then a partner at Irell who had just represented the Natural Resources Defense Council before the U.S. Supreme Court in late 2008. In the pro bono case, Kendall helped preserve several safeguards meant to protect marine mammals from high-intensity, mid-frequency active sonar used in naval exercises. With a few months' break before his caseload built back up, Kendall had some time to reflect.

"That was a peak experience," Kendall said of appearing before the high court. "I was 56 years old, and like many people that age, I thought, 'What do I want to do?' And I'd always had a bit of this dream to start a law firm."

Next, he went to Brill, also a partner at the firm. While she was concerned about the risk of leaving a steady job at a great firm, Brill thought the opportunity to start something entrepreneurial was too good to pass up.

"The main thing about a practice is that it's all about the people," she said. "So you couldn't have asked for better people to start off with it."

But they didn't leave empty-handed. Along with Kelly and a few others came several big-name clients from Kendall's practice, including Paramount Pictures and Viacom Media Networks.

Since then, Kendall has steadily expanded his practice. Recently, Kendall filed a demurrer on behalf of Creative Artists Agency in response to a lawsuit filed by former clients David Simon, Meredith Stiehm and other members of the Writers Guild of America.

Filed in Los Angeles County Superior Court, the suit alleges CAA, along with WME, ICM Partners and UTA, violated state and federal laws by taking "producer-like" packaging fees on television shows they put together, a longstanding industry practice. *Writers Guild of America West, Inc. v. WME Entertainment*, 19SMCV00725, L.A. Super. Ct., filed April 17, 2019).

"The WGA has no standing to bring claims on behalf of individual writers, and [their] claim that packaging fees violate the Labor Management Reporting Act's anti-bribery statute is frivolous," Kendall said. "That criminal statute, which prohibits unions and union personnel from taking bribes, has no application to ordinary commercial transactions by non-union personnel."

Brill, meanwhile, has since become a major force on the appellate circuit. In January 2018, she represented the Hotel Association of New York City, which represents more than 280 New York City hotels, as part of a class action against San Francisco-based Airbnb Inc., before the 9th U.S. Circuit Court of Appeals.

The association joined Aimco, a real estate investment trust company that owns and operates multiple apartment buildings in Los Angeles County, in the action against Airbnb, claiming the company illegally brokered and promoted short-term rentals through subleasing. *La Park La Brea A LLC v. Airbnb Inc.*, 18-55113 (9th Cir., filed Jan. 26, 2018).

Brill's other project, The Civics Center, a nonprofit that promotes pre-registration and voting registration initiatives for teenagers, continues to grow quickly. In addition to expanding pre-registration drives and programming across the country, the project is hiring interns for the summer. "It's been really fun to see the way this resonates when people understand what we're trying to do," she said.

Making partner a year after joining Kendall Brill, Kelly has become one of the city's top entertainment litigators, Kendall said. The two represent several of Kendall's bigger clients, including Paramount and Viacom.

"Some of that is very traditional mentoring," Kendall said. "But it's also knowing how and when to get out of the way and let the younger partner really flourish."

"What we really care about is making sure the client is happy and represented as well as possible," added Kelly. "Dick has been extremely generous with me in terms of allowing me to develop the relationship directly with the client. And that's been huge for my career. They consider me their lawyer every much as they consider Dick to be their lawyer."

Currently, the two represent Regency Entertainment in an $18 million breach of contract suit against a group of financiers behind Warren Beatty's 2016 box-office flop "Rules Don't Apply." The financiers promised to pay back Regency for expenses the distributors couldn't recoup due to poor sales, the suit alleges. *Regency Entertainment (USA), Inc. v. Tatira* 2, LLC, BC687109, (L.A. Super. Ct., filed Dec. 15, 2017).

Bert Fields, a longtime partner at Greenberg Glusker Fields Claman & Machtinger LLP and well-established entertainment lawyer, represents the financiers in the matter opposing Kendall and Kelly. It's a familiar position, Fields said, with the two having squared off on several occasions over the last 15 years.

"He's certainly one of the premier litigators in the city," Fields said. "He possesses a high level of skill and is always courteous to deal with, which is a hard combination to find. I give him top grades."

Dugdale, who heads the new white-collar practice, hopes to develop that same kind of practice. After nearly two decades working as a prosecutor, he said he's looking forward to building his own client base.

"I knew that this place would give me the latitude to bring in clients and that I'd be working with partners who'd be generous about sharing clients I could serve right off the bat," he said. "So I was busy from day one here, and I've been busy ever since."

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