

# Philip M. Kelly

*Partner*



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Phil Kelly has achieved numerous victories in multimillion-dollar litigations, including in disputes involving copyright infringement, film finance, profit participation, intellectual property licensing, and film and TV distribution agreements. His achievements led to *Variety*, one of Hollywood's leading publications, repeatedly recognizing Mr. Kelly as one of the industry's leading lawyers.

He has successfully represented many entertainment and media leaders, including CBS Broadcasting, Creative Artists Agency (CAA), NBCUniversal, Paramount, Viacom, legendary composer Hans Zimmer, and many more. He also has represented individuals and companies outside of the entertainment industry in legal disputes in state and federal courts and arbitrations throughout the country. 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.

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## Education

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

- Order of the Coif

**Pomona College, B.A., Economics, 1995**

- Pomona College Athletic Hall of Fame, Men's Basketball

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## Representative Matters

### Film and Television Finance, Profit Participation, and Distribution Disputes

- Secured summary judgment for Paramount Pictures Corporation in a \$40 million lawsuit related to the distribution of a motion picture.
- Represented NBCUniversal in a significant dispute that is related to the sale and distribution of a slate of films that are presently owned by a hedge fund.
- Represented Paramount Pictures in a putative class action suit that was related to the treatment of home video revenues on films produced prior to 1981 for the purposes of reporting to and paying profit participants. The case is one of several that have been brought against all of the major movie studios.
- Representing a prominent talent agency in a \$55 million lawsuit brought by producers and film financiers of motion picture projects alleging misrepresentations, fraud, and breaches of fiduciary duty.
- Secured complete defense verdict for major film studios in a confidential arbitration brought by a world-famous stand-up comedian over payments allegedly owed under an agreement.
- Obtained summary judgment on behalf of Creative Artists Agency (CAA) in an action that asserted tort and contract claims that were related to a highly successful TV series.

- Representing European Film Bonds and group of German insurance and reinsurance companies (including Allianz) in a case brought by the producers of the film, *Starbright*, and sales agent, in dispute over terms and conditions of a completion guarantee after taking over completion of the film from the producers.
  - Obtained a complete defense victory in the trial and appellate courts for Paramount Pictures in a complex commercial dispute that involved overlapping issues of entertainment and securities law.
  - Secured settlements for all amounts owing and a verdict in favor of clients Regency Entertainment Inc. and Monarchy Enterprises S.A.R.L 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 Warren Beatty's *Rules Don't Apply* box-office flop.
  - Representing CBS Broadcasting in an ongoing arbitration with actor Chuck Norris' production company, Top Kick, over a \$30 million breach of contract dispute in which Top Kick is seeking additional compensation for streaming and other potentially lucrative uses of Norris' image and his popular TV show, *Texas Ranger*.
  - Represented Paramount Licensing Inc. in a \$10 million+ breach of contract case brought against a former licensing partner in connection with the development of Paramount hotels and theme parks throughout the world.
  - Represented Screen Media Ventures in litigation with a major studio that concerned 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.
  - Representing owner of rights to an iconic comic book character in a confidential arbitration proceeding brought by a film production company alleging breach of a first and last negotiation right.
  - Represented Universal Studios in an accounting dispute with StudioCanal that was related to a series of films that were produced by Working Title Films.
  - Litigated on behalf of several leading entertainment studios in a multi-billion-dollar dispute that concerned the licensing and distribution of pay TV services in Australia. The case, which involved a variety of contract and tort claims, was settled before trial.
- ### Copyright Infringement, Idea Submission, and Other Entertainment-Related Disputes
- Secured a dismissal and public apology, as well as monetary compensation for the legendary composer Hans Zimmer and several companies in a copyright infringement claim that concerned the Academy Award-winning film *12 Years A Slave*, along with its score and soundtrack album.
  - Secured summary judgment in favor of Viacom International Inc. and Nickelodeon Animation Studios in a copyright infringement action regarding elements from two issues of the plaintiff's late 1990's comic book in connection with the development and distribution of the animated pre-school show, *Rusty Rivets*.
  - Successfully represented Viacom and Viacom Media Networks in a copyright infringement lawsuit that involved the hit TV children's show *PAW Patrol*, which was resolved immediately prior to summary judgment.
  - Won summary judgment of a copyright infringement claim for his client Viacom and Viacom Media Networks, as well as the production company and producers, in a federal lawsuit that involved the hit VH1 television show *Love & Hip Hop*.
  - Represented Viacom Inc. and Viacom Media Networks in an action that involved numerous tort claims, including misappropriation of likeness and defamation that arose out of the production and broadcast of a reality TV program.
  - Represented multiple defendants—a TV production company, a broadcast network, and producers—in a copyright infringement action that involved a hit reality TV series. Obtained summary judgment, after discovery, in favor of the clients concerning the copyright infringement claim.
  - Obtained summary judgment on behalf of a broadcast network that was facing allegations of failure to pay royalties that were made by composers of background music. The claims involved the release of an episodic TV series from the 1950s to the 1970s on videocassette and DVD and the royalties for the synchronization licenses of the compositions.
  - Represented Hachette Book Group in a dispute 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 that involved the scope of attorney-client privilege.
- Represented a world-famous athlete in libel and slander litigation that was brought against a prominent magazine.
- Achieved dismissal of Racketeer Influenced and Corrupt Organization (RICO) Act, antitrust, and commercial bribery claims that were brought against a video game developer and publisher by a global sports entertainment company. The plaintiff claimed damages in excess of \$100 million in an action that arose out of the alleged bribery of licensing agents and the 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 filed by both parties, all of which were settled before trial.

### Commercial Litigation

- Successfully defended an online toy retailer in a multimillion-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 multimillion-dollar dispute that arose out of an exclusive purchase agreement with a key supplier. After a 19-day arbitration trial, Mr. Kelly defeated the claims brought against his client, which alleged improper termination of agreement, misrepresentation, promissory fraud, and theft of intellectual property.

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## Recognition and Affiliations

- *Variety*, Leading Lawyer, 2018-present; *Rising Star*, 2016
- *Southern California Super Lawyer*, 2018
- *Benchmark Litigation*, *Litigation Star*, 2021
- *Southern California Super Lawyer: Up-and-Coming Rising Stars*, 2008–2012
- *Inner City Law Center*, Board of Directors, 2015–present

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## Prior to Kendall Brill & Kelly

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

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## 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**

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