

Daily Journal

MAY 8, 2013

Top Women Lawyers

This supplement is devoted to recognizing excellent lawyering and leadership skills among women attorneys in California. To pick a list of 75 litigators and 25 corporate transactions and regulatory specialists, editors at the Daily Journal reviewed hundreds of nominations from law firms, public agencies, nonprofits and universities.

Women are helping major litigation and deals and on the cutting edge of regulatory work. They are leaders and rainmakers in their law firms in numbers never seen before.

—The Editors

Jennifer L. Keller

Keller Rackaukas LLP, Irvine

PRACTICE TYPE: litigation

SPECIALTY: commercial, class actions, intellectual property, securities, white-collar defense

Keller remains in the forefront of two headline-grabbing cases.

Most recently she is on a team defending Standard & Poor's in the government's civil suit over the alleged ratings inflation of mortgage-backed securities. *United States of America v. McGraw-Hill Cos. Inc. et al*, CV-13-779 DOC (JCGx) (C.D. Cal, filed Feb. 4, 2013).

The government has accused the agency of intentionally inflating the ratings of mortgage-backed securities and companies that heavily invested in them from 2004 through 2007.

The case is being prosecuted by the U.S. Department of Justice's main office and the U.S. attorney's office for the Central District. The government is going after about \$5 billion in penalties from Standard & Poor's.

In their motion to dismiss filed in February, Keller and the team concluded that, "Since the complaint fails properly to allege a specific intent to obtain money or property from the parties *that were deceived*, it fails to state a claim under the fraud statutes and the complaint should be dismissed."

While Keller declined to comment directly on the case, she did say, "I like to have cases where I'm on the right side of the truth. This is a case where I'm very confident that we are on the right side."

Keller is also representing MGA Entertainment, Inc. in its long-running dispute with toymaking rival Mattel Inc. over the Bratz line of dolls. *Mattel Inc. v. MGA Entertainment Inc.* 705 F.3d 1108 (9th Cir. 2013).

At issue, MGA is hoping to revive its battle over the Bratz dolls after the 9th U.S. Circuit Court of Appeal in January reversed a \$172 million award finding that Mattel stole trade secrets about Bratz from MGA.

In the forefront of the case right now is a fight over whether MGA should be allowed to amend its complaint, which would keep the case in federal court, or be forced to file in state court, where it would be back at square one, Keller said.

If the case ends up in state court, she added, "There is a



gigantic amount of court hours and juror time invested in this trial, which would be lost."

In addition, Keller added, the case would swamp the already overburdened state court.

"This is a massive case," she said, "and there has been an enormous amount of discovery done in federal court. It would all have to be done again in state court."

Keller said that she's waiting for a ruling from U.S. District Judge David O. Carter on whether her client will be allowed to amend its complaint and remain in his court.

Mattel could be disadvantaged in state court, because "the whole trade secrets theft case would be reopened as a pure plaintiff case," she said, along with the potential for bigger damages.

"And, we know more about Mattel's misconduct than we did before the last trial," Keller added.

On the other hand, "If we stay put, we have a judge who thoroughly is versed in the case," Keller said. "It would be a huge time saver for everybody."

She added, "It's a two-edged sword."

But, given the choice, Keller said, "The only way to wrap this up quickly is if it stays before Judge Carter. Otherwise it's like reopening Pandora's Box."

— Pat Broderick