

ATTORNEYS OF THE YEAR 2011

Jennifer Keller

Keller Rackauckas

Irvine criminal defense attorney Jennifer Keller doesn't believe in parachuting into cases midstream. And she's the first to admit that taking over as lead trial counsel for MGA Entertainment Inc. in its battle over dolls with Mattel Inc. 12 days before the trial was no cake walk — even for a seasoned lawyer with more than 150 jury trials under her belt.

Mattel had tucked away a \$100 million win in its copyright infringement suit against its smaller rival in 2008. The jury in that trial found Mattel owned the entire Bratz line, and U.S. District Judge Stephen Larson issued a worldwide injunction preventing MGA from selling any more Bratz products. After MGA won its appeal, the two California companies returned to court to duke it out in a four-month-long, high-profile scrimmage last January to decide who owned the rights to the provocative and hugely popular Bratz dolls. MGA CEO Isaac Larian hired Keller for her chops as a trial attorney to co-counsel with Orrick, Herrington & Sutcliffe on the case. By then, new evidence had come to light, allowing MGA to hit Mattel with a corporate espionage counterclaim.

Keller said some colleagues had warned her that jumping into the middle of a complicated bet-the-company case on such short notice was "professional suicide."

And truly, there were mountains of information to digest to get up to speed. Keller said she needed help from her long-time associate Allison Shalinsky. Skadden, Arps, Slate, Meagher & Flom attorneys, who had represented MGA in the 2008 trial, and Orrick partners,

played indispensable roles. The trial itself was grueling, too. Sometimes Keller was handed witness examination outlines on the fly — 10 minutes before the witness took the stand. Between January and April, she lost 25 pounds. Keller said the parties were lucky to get U.S. District Judge David Carter, whom Keller describes as "fanatical" in his quest to make sure everybody gets a fair trial. And he worked the lawyers hard. "He has you there nights, weekends, early in the mornings. ... We didn't get time to eat," Keller said. "I call it the Judge Carter diet."

When the jury reversed course in the second part of the 2011 trial, rejecting unanimously Mattel's copyright infringement claims and finding that Mattel had, in fact, stolen MGA's secrets (the judge doubled the \$85 million award and added attorneys' fees), the satisfaction was that much sweeter for the 58-year-old Keller. "It was an opportunity of a lifetime," Keller said. "I got to participate in saving an upstart company from a big corporate bully that tried to crush it, and I was able to serve the ideals of American business. That's not something a lawyer gets to do every day."

The MGA case was Keller's first IP trial. The UC-Hastings law school graduate began her career at the Orange



County public defender's office. She left five years later to open her own firm. After the birth of her son, Jeremy, in 1985, Keller decided to pare back her hours, and took a position as a senior research attorney at the Fourth District Court of Appeal. "Any woman who has children ends up making decisions like that," Keller said. "We take some detours." At the time she viewed it as a setback, but in hindsight, Keller says that it was a great crash course in how judges think and the way the appeals court works.

Keller returned for a brief stint at the public defender's office, where she focused on homicides and major trials. In 1992, she opened her own criminal defense shop, Keller Rackauckas. While criminal cases continue to be her passion, Keller says she'll be taking on more business litigation because the demand is high and the pay lucrative. "I really like the world of business trials," Keller said, adding: "I think I've proven myself to be pretty good at them."

— Petra Pasternak