

J. KEVIN MCCALL, Partner

J. Kevin McCall is a litigator. Clients seek his counsel on a wide variety of complex securities, commodities, class action, derivative and directors and officers litigation. He has represented securities and commodities market participants, investment companies, investment company sponsors, fund advisors, as well as issuers, underwriters and financial institutions and their directors and representatives in federal and state trial and appellate courts and in SEC, CFTC, NASD, FINRA, NYSE and CME regulatory proceedings arbitrations and mediations.

Mr. McCall is AV Preeminent Peer Review Rated, Martindale-Hubbell's highest peer recognition for ethical standards and legal ability, and has been consistently named an *Illinois Super Lawyer* for Securities Litigation. He has represented clients in the areas of security and commodities fraud manipulation, consumer financial services, insurance class actions, lending-related class actions, as well as claims involving fiduciary and professional liability issues. Mr. McCall is a member of the firm's Securities Litigation and Enforcement, ERISA Litigation, and Bankruptcy Litigation Practices. He also serves the firm as a member of its Audit, Finance and Pro Bono Committees.

Mr. McCall has lectured and written on class actions and co-authored a chapter in the 2003 IICLE publication *Securities Law*. He is active in the community, currently serving as director of the John Howard Association. He also has served as vice president of Pro Bono Associates.

In his 39 years of practice at Jenner & Block, Mr. McCall has developed a broad range of experience in all areas of complex commercial litigation with a particular focus on financial fraud litigation, securities and commodities litigation, SEC/CFTC investigations and enforcement actions, class actions and trade secret litigation. Mr. McCall has achieved numerous victories for both corporate and individual clients in forums across the country -- including California, Colorado, Delaware, Florida, Illinois, Massachusetts, Michigan, New Mexico, New York, Ohio, Texas and Wisconsin.

Commodities

- Successfully represented the trustee of a bankrupt Futures Commission Merchant in federal court claims relating to the violation of commodities and securities regulation. Tried case related to segregation violations and succeeded on appeal.
- Currently representing a major food company in a commodities manipulation and antitrust class action involving wheat futures and options
- Currently representing a major grain trading company in a commodities manipulation and antitrust class action involving wheat futures and options



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PRACTICE GROUPS

Bankruptcy Litigation
ERISA Litigation
Financial Services Litigation
Litigation
Markets and Trading
Securities Litigation and Enforcement

EDUCATION

Loyola University Chicago School of Law,
JD, 1979; *cum laude*

Loyola University Chicago, AB, 1976

ADMISSIONS

Illinois, 1979

COURT ADMISSIONS

US Court of Appeals, Third Circuit, 1980

US Court of Appeals, Seventh Circuit,
1980

US District Court, Northern District of Illinois,
1980

US Court of Appeals, Ninth Circuit, 1990

US Court of Appeals, DC Circuit, 1990

US District Court, Eastern District of
Michigan, 1990

US District Court, Southern District of Texas,
1996

JUDICIAL CLERKSHIPS

Hon. Warren H. Young, US District Court,
Virgin Islands, 1979 - 1980

SEC Investigations & Enforcement Actions:

Mr. McCall regularly represents clients in SEC inquiries, investigations, and enforcement actions relating to accounting practices, insider trading, and adequacy of corporate and financial disclosures:

- Represented a corporate officer and relative in an SEC enforcement action involving alleged insider trading and tipping prior to a merger.
- Represented the individual directors of a large bank in connection with FDIC and SEC investigations related to alleged misrepresentations concerning the bank's commercial lending practices.
- Represented former CFO in SEC investigation of FAS 140 transactions.
- Represented biotechnology company and CEO who were alleged to have misrepresented and concealed results of clinical trials of investigative drug. The SEC issued a letter closing the investigation without charges.
- Represented senior partner of major accounting firm in insider trading investigation.
- Obtained the dismissal of claims against officers and directors of an insolvent Michigan bank that were brought by the FDIC and creditors of the bank.
- Represented investment company advisor in SEC market timing investigation.
- Represented fund sponsor and municipal bond underwriter in connection with SEC and NASD yield burning investigations.
- Represented bankruptcy trustee for investment advisor in SEC and CFTC investigation of misuse of customer funds.

Securities Class Actions & Derivative Litigation:

Much of Mr. McCall's practice has been focused on defending investment advisors, issuers, underwriters, investment company sponsors, financial institutions, mutual funds, trustees, directors and corporate officers in connection with allegations of securities fraud and breaches of fiduciary duty. Some of Mr. McCall's recent experience includes the following:

- Represented the trustee of an investment advisor in high-profile case against brokerages and certain of their employees who sold allegedly unsuitable CDOs to investment advisor.
- Successfully represented a major investment company and its directors in four derivative lawsuits in connection with claims stemming from the redemption of auction rate securities, resulting in all claims being dismissed with prejudice.
- Successfully defended major investment company sponsor, officers, and fund directors against breach of fiduciary duty claims stemming from mergers of several investment companies. Mr. McCall won the dismissal of all claims against his clients with prejudice.
- Represented the individual directors of a large bank in connection with securities class actions, ERISA actions, and shareholder derivative lawsuits, all of which relate to alleged misrepresentations and bank's commercial lending practices.
- Successfully represented four of the 39 defendants in a complex securities fraud and RICO action brought by investors in a technology partnership.
- Obtained the dismissal with prejudice of securities claims brought against a major Illinois utility company that was accused of issuing misleading earnings projections and financial statements in violation of GAAP.

- Following the bankruptcy of a chain of stores, Mr. McCall successfully defended the company's directors and corporate affiliate against alleged violations of the federal securities laws.
- Won the dismissal of nationwide class claims brought against an underwriter and investment advisor who were accused of failing to disclose the risks associated with foreign currency denominated investments.

Internal Investigations:

A substantial portion of Mr. McCall's practice has been devoted to internal investigations and audit committee inquiries:

- Successfully represented special committee of technology company's board in connection with matters involving SEC investigations of accounting restatements.
- Represented fund board members in special committee investigation of derivative claims regarding share redemptions.
- Represented investment company sponsor and insider directors in special litigation committee investigation of fund rights offering.
- Represented special litigation committee of a major Midwest utility in investigation of claims relating to "round-trip" transactions.
- Represented a board's special litigation committee in investigation and derivative litigation over accounting issues.

Trade Secret Litigation, Consumer Class Actions & General Commercial Disputes:

Mr. McCall also regularly prosecutes and defends clients in commercial disputes, such as breach of contract claims, trade secret and restrictive covenant actions, unfair competition, and professional malpractice claims. For example, Mr. McCall:

- Successfully represented online travel company in trade secrets claims brought against former employee and competing online travel company.
- Successfully represented several major insurance companies in a series of class actions relating to various premium charging practices.
- Represented software company in major trade secret dispute regarding software systems.

Awards

- *Illinois Super Lawyers*
Securities Litigation - 2006, 2008-2020
- United States District Court of the Northern District of Illinois
Award for Excellence in Pro Bono Service - 2019

Community Involvement

- John Howard Association, Board of Directors
- Pro Bono Advocates, Vice President, 1990-1991

Publications

- Co-Author, Client Alert: *U.S. v. Newman*: Second Circuit Reverses Remote Tippees' Convictions for Insider Trading Where Tippers Never Charged, December 22, 2014
- Co-Author, "Private Litigation Under the Investment Company Act of 1940," *Securities Law* (Illinois Institute for Continuing Legal Education), 2003
- "Class Action Settlements," *Illinois State Bar Association*, 1998
- "Drugs in the Workplace," *Conveyor Manufacturers Association*, Spring 1991
- "A New Combination of Davy Jones' Locker: Melee Over Marine Minerals," *Loyola University of Chicago Law Journal*, Vol. 9, No. 4, 1978

Speaking Engagements

- Guest Instructor, University of Notre Dame Law School Trial Advocacy Course, South Bend, IN, January 03, 2010 to January 16, 2010
- Cambridge Institute Construction Law Symposium, Chicago, Illinois,