

## Eric Kuwana

### Partner

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Eric Kuwana has been recognized as one of the nation's top trial lawyers by the *National Law Journal* and represents companies in significant disputes across the country, advises senior management and board committees, and brings broad experience across government, private sector industries, and a wide range of lawsuits to solve his clients' most pressing problems. He focuses his practice on large commercial disputes, corporate and shareholder securities actions, products liability, catastrophic and mass torts, real estate matters, and other bet-the-company litigation. Eric regularly represents companies, their officers and directors, and board committees in government and internal investigations.

Eric has served as lead counsel in federal and state courts and in arbitrations in more than 30 states in an array of complex commercial litigation matters. He has defended and tried cases to judgment with total exposures in the billions of dollars.

Before entering private practice, Eric served as an attorney in the White House under President George H. W. Bush in the Office of Counsel to the President. Eric regularly represented political campaigns and committees, and also served as Deputy General Counsel for the inaugurations of President George W. Bush.

Before joining Alston & Bird, Eric held leadership positions in two national law firms for their national litigation and securities litigation practices and as a member of their boards of directors.

### **Representative Experience**

#### **Commercial & Civil Litigation**

- Lead counsel for an international insurance brokerage in disputes, arbitrations, and court actions following an M&A transaction with a large UK based insurance brokerage, which resulted in a global settlement.
- Lead defense and trial counsel for a REIT defendant in a complex federal court lawsuit filed by a national publicly traded homebuilder in a real estate and real estate finance dispute alleging environmental, breach of contract, and other claims in highly contentious litigation spanning eight years. Implementing an aggressive defense and launching counterclaims, the defendant achieved the rare complete trial victory as a defendant: it defended all claims brought against it and won on its counterclaims. After a multiweek trial, the court found that the plaintiff acted in bad faith trying to avoid its contractual obligations and entered judgment in favor of the defendant and against the plaintiff exceeding \$235 million and then later also judgment for an additional recovery of attorneys' fees and costs. The judgment was affirmed by the Fourth Circuit, and the U.S. Supreme Court denied the plaintiff's petition for certiorari. (D. Md.)
- Lead counsel for the majority shareholder in a new economy company relating to a complex dispute and arbitration with the minority owners and founders of the company.
- Lead counsel for a new economy technology company relating to a complex commercial dispute and arbitration with a Bitcoin miner equipment company.

- Lead counsel to a global IT outsourcing company in a complex dispute with a publicly traded company over a multiyear outsourcing and IT contract.
- Lead counsel representing a Fortune 500 biotechnology and medical device company in an international trade secret and tortious interference lawsuit relating to licenses for intellectual property and enforcement of intellectual property rights for biotechnology products in Japan. The case was settled.
- Lead counsel for a multinational insurance company in a dispute arising from a ground lease at the Highland Mall in Austin, TX. On motion, the entire bankruptcy was dismissed. (W.D. Tex.).
- Lead counsel in misappropriation of trade secrets litigation in state court; preliminary and permanent injunctive relief was obtained on behalf of the client. (Loudoun County, VA).
- Lead counsel for the former chief executive officer of a company in a civil fraud and breach of contract case. The case was settled. (E.D. Va.).
- Approved as D&O/FINPRO panel counsel for insurers AIG, Chubb, and Marsh, and served as national trial counsel for insurer Great American.

### ***Products Liability & Catastrophic Injury Litigation***

- Lead trial and national coordinating counsel for four defendants – a national warehouse retailer, a manufacturer, and two supply-chain companies – in products liability cases in federal and state courts across 10 western states arising out of a large food borne outbreak and recall of an organic frozen berry blend. Plaintiffs’ counsel brought hundreds of individual cases and a consolidated class action with eight-figure exposure and many multiples of that in punitive damages. In the first bellwether trial, a lengthy products liability and wrongful death trial in Los Angeles Superior Court with punitive damages, the jury delivered a unanimous defense verdict in the defendants’ favor.
- Lead defense and trial counsel representing a tire company in a products liability and catastrophic tort lawsuit in state court involving an SUV rollover, quadriplegic injuries, a three-month trial, and a nine-figure exposure. The trial resulted in a hung jury, and an innovative settlement was negotiated while the jury deliberated, protecting the client from a second trial. (Orange County, CA).
- Lead trial counsel defending a publicly traded company at trial in a wrongful death action in state court arising from the death of a senior executive of a competitor. Obtained a defense verdict at the third and final trial of the matter after an eight-figure jury demand by a nationally known Florida plaintiff lawyer. (St. Petersburg, FL).
- Coordinating defense counsel in multiple wrongful death actions brought in state and federal courts against a publicly traded company arising out of an incident at a Louisiana manufacturing facility.
- Lead defense and trial counsel representing the owner and management group of an apartment complex in a premises liability and wrongful death case arising from a fire involving multiple deaths, code violations in an apartment where deaf residents resided, and a nine-figure jury demand in state court in Texas. The case was tried to verdict due to the high settlement demand, and the judgment against the clients was contained to the low single digits. (Dallas County, TX).
- Lead defense and trial counsel representing a bicycle helmet manufacturer and major retailer in a products liability and catastrophic tort lawsuit involving substantial brain injuries, a multiple-week trial, and an eight-figure jury demand. Obtained a defense verdict. (E.D. Cal.).

- Lead defense and trial counsel representing a manufacturer of safety lanyards in litigation involving paraplegic injuries at a construction site and a request for eight-figure damages. Won a defense verdict at the trial court. Also served as lead appellate counsel and argued and won the appeal in the Fourth Circuit. (E.D. Va., 4th Cir.).
- Lead counsel defending a maker of food storage, home storage, disposable cookware and tableware, and trash disposal products in an industrial accident involving traumatic brain injuries. The case was settled on favorable terms. (W.D. Va.).
- Lead trial counsel defending a company in a premises liability and catastrophic tort lawsuit in state court involving quadriplegic injuries from a swimming pool incident and a request for eight-figure damages. After a long trial, the plaintiff voluntarily dismissed with prejudice after a nominal jury verdict. (Fulton County, GA).
- Lead defense and trial counsel representing a publicly traded company in a catastrophic tort lawsuit involving a wrongful death claim and quadriplegic injuries with an eight-figure jury demand. Obtained a defense verdict after a two-week jury trial in state court in Miami-Dade County.

### ***Securities Litigation & Investigations***

- Lead defense counsel for a publicly traded California-based bank and its officers and directors in a shareholder securities class action and related derivative actions brought in federal and state courts in California with potential nine-figure exposure. The matter was settled on favorable terms.
- Defended the head of a hedge fund and former chairman of a publicly traded company in a breach of fiduciary duty trial brought in federal bankruptcy court, which was settled part way through trial and resulted in a favorable settlement with the bankruptcy trustee. (Bankr. E.D. Va.).
- Lead counsel representing the chairman and CEO, interested members of the board of directors, and the lead private equity firm in shareholder litigation relating to an almost \$4 billion taking-private transaction by management and several private equity firms with nine-figure exposure. The case was dismissed with prejudice by the trial court, but after being reversed and remanded by the Court of Appeals of Maryland, the case was settled after confirmatory discovery in France.
- Lead defense counsel for a senior finance executive based in the United Kingdom and working for a multinational company facing SEC investigations, government investigations, and shareholder securities litigation. The matter was settled on favorable, nonpublic terms.
- Lead counsel representing an investment manager and its founder in civil litigation arising when the Ohio Bureau of Workers' Compensation lost \$215 million invested with a hedge fund. (S.D. Ohio).
- Lead counsel for former officers and directors of a bankrupt issuer in multibillion-dollar complex, consolidated securities fraud actions relating to the allocation of shares of stock in initial public offerings of technology companies by issuers and underwriters. (S.D.N.Y.).
- Lead counsel for officers and directors of a bank holding company in shareholder litigation in state court relating to its \$1 billion purchase. The case was settled. (Las Vegas, NV).
- Lead counsel in fee disputes between investment banks and clients, including SPACs and public issuers.
- Lead counsel representing an investment manager and its founder in civil litigation brought by the SEC for securities fraud arising from its IPO (D. Md.).

### ***Government Litigation & Investigations***

- Lead counsel to the Bush-Cheney campaign relating to the congressional investigation over emails taken off White House servers by senior administration staff.

- Counsel to the Republican National Committee in historic litigation over the constitutionality of the Bipartisan Campaign Reform Act (McCain–Feingold Act). (D.D.C., DC Circuit, Supreme Court).
- Conducted an internal investigation of the domestic and international sales force of a technology company and presented findings to the board committee.
- Have represented both companies and individuals in SEC inquiries, investigations, and enforcement actions, including presentations and defense of witnesses in Washington, DC, and field offices.
- Lead counsel to a trade association in a federal court and administrative challenges to an emergency rulemaking to mandate new requirements for the delivery of propane across the country.
- Lead counsel defending the Presidential Inaugural Committee of President George W. Bush in constitutional litigation brought by protester groups. The case was settled on favorable terms. (D.C. Cir.).
- Lead counsel for public and private companies, audit committees, special committees, nonprofits, and political parties for nonpublic and confidential internal, external, and government investigations.

## ***Publications & Presentations***

### ***Publications***

- “The Monaco Memo: Unanswered Questions and Unintended Consequences,” *ILR Briefly*, February 2022.

### ***Professional & Community Engagement***

- Move United (f/k/a Disabled Sports USA and Warfighter Sports), board of directors
- University of Kansas School of Law, board of governors
- National Asian Pacific American Bar Association
- Leadership Council on Legal Diversity
- Minority Corporate Counsel Association
- Gibson Island Club, board of directors
- *Washington Business Journal* – Minority Business Leader Award
- Minority Corporate Counsel Association – Rainmaker Award

### ***Education***

- University of Kansas (J.D., 1991)
- The University of Chicago (B.A., 1988)

### ***Admitted to Practice***

- District of Columbia
- Missouri
- New York

### ***Related Services***

Commercial | White Collar, Government & Internal Investigations | Products Liability | Securities Litigation | Real Estate Litigation | Financial Services Litigation | Class Action & Multidistrict Litigation | Food, Beverage & Agribusiness | Japan Business Team | Insurance