



BRENDAN M. KENNY
ATTORNEY AT LAW

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OVERVIEW

Brendan M. Kenny is a seasoned litigator with 17 years of experience in administrative, state, federal, and appellate courts, including at the Minnesota and California Attorney General’s Office. Whether it is administrative law, business law, commercial and contractual disputes, real-estate conflicts, probate matters, or insurance coverage, Brendan has the experience and the passion to deliver exceptional results for his clients. He is also a recognized leader and innovator in legal writing and persuasion, sharing his insights and best practices through publications, presentations, and podcasts. Brendan is also a husband and a father of six. A Californian by birth, he is a Minnesotan by choice.

Brendan’s passion for advocacy started at a young age. In his rural California hometown, he saw first-hand what happens to a community when powerful political, economic, and social forces converge to destroy a way of life. Now as a lawyer, Brendan is driven to be what he couldn’t be in his youth: a voice for those who can’t speak for themselves; a skilled advocate who understands the inner workings of the legal system; and a knowledgeable guide for those who don’t know the way.

Brendan’s commitment to justice for his clients and identification with their challenges, needs, and goals permeates everything he does. That’s why clients so often use words like “tireless,” “attentive,” “a great listener,” and “unwavering” to describe Brendan’s commitment to them and their legal matters. His professional journey involves legal practice in several states, state and federal and administrative courts, and many areas of the law. And his clients can attest that his unusual breadth of expertise allows him to flexibly and creatively help them in ways that lawyers with more traditional backgrounds cannot.

Before coming to Hellmuth & Johnson in January 2022, he worked at the Minnesota Attorney General’s Office as an Assistant Attorney General. This involved representing the Minnesota Department of Human Services in federal, state, and administrative matters involving civil rights, health care, ADA, children-and-family services, mental health, licensing, and disqualification based on maltreatment and background studies. He also tried or resolved cases involving alleged overpayments to programs, agencies, and providers under the Minnesota Health Care Program and Child Care Assistance Program.

PRACTICE AREA

- Appeals & Legal Writing
- Business & Corporate
- Business Litigation
- Complex Litigation
- Construction Defects & Warranties
- Homeowner Associations
- Insurance Coverage
- Real Estate
- Real Estate Litigation

ADMISSIONS

- Minnesota State Courts
- California State Courts
- U.S. District Court for the District of Minnesota
- U.S. District Court for the Northern and Eastern Districts of California
- United States Courts of Appeal for the Eighth and Ninth Circuits

EDUCATION

- University of California, Hastings College of the Law, J.D., 2005

For the first seven years of his legal career, Brendan worked first as outside counsel for businesses and public entities, and then as a Deputy Attorney General at the California Attorney General's Office.

University of California,
Berkeley, B.A., 2002

In 2012, he moved to Minnesota from California. He worked at a law firm in Minneapolis from 2012 to 2020, where he handled complex mass torts, product liability, class actions, and business and commercial litigation for Fortune 100 and Fortune 500 companies. This work included false-advertising and trademark-infringement claims, suits involving popcorn-lung and cooking-spray injuries, one of the Twin Cities' largest groundwater contamination cases in recent years, and a multi-municipal action regarding flushable wipes.

Brendan is also a sought-after speaker and writer on legal writing, eDiscovery, trial practice, storytelling, and all things persuasion. He is co-author of the Minnesota E-Discovery Deskbook (since 2016). When Brendan isn't working, he is spending time with his wife, Andrea, chasing their six children (ages 13 to three).

EXPERIENCE

Representative Business, Corporate, and Commercial Litigation Cases:

- Representing neighbors near data facility suffering from excessive noise generated by facility (ongoing).
- Representing homeowners' association against developer for refusal to convey title of common element to association (ongoing).
- Represented townhome association in suit against condominium association for refusing to contribute to repair and maintenance of shared stormwater-drainage system.
- Obtained payment of manufacturer's \$100,000+—18-months overdue—invoice after one videoconference with purchaser.
- Won reinstatement of African-owned market's participation in SNAP program, following USDA disqualification based on alleged "trafficking" of SNAP benefits.
- Won reinstatement of Native-owned market's participation in SNAP program, following USDA disqualification based on alleged "trafficking" of SNAP benefits.
- Halted defamation of client and client's minority-owned nonprofit on "Are We Dating the Same Guy" Facebook group.
- Defeated motion for \$200,000+ default judgment against homeowner and business owner regarding unpaid real estate loan.
- Successfully vacated (lifted) \$800,000+ default judgment against business regarding vendor's unpaid invoices.
- Negotiated 57% reduction in contract damages sought by Zoominfo against tech start-up.
- As-applied challenge to Minnesota estate tax under Due Process Clause and Commerce Clause for unconstitutional taxing of out-of-state property.
- Represented summer collegiate baseball league in suit against collegiate baseball teams in suit to enforce non-compete agreement.
- Defeated summary-judgment motion of developer asserting statute of limitations barred claims of property damage by homeowners association.
- Defeated summary-judgment motion of insurer asserting no duty to defend or indemnify in case involving barge tanks.

- Defeated summary-judgment motion of insurer asserting no duty to defend or indemnify in case involving subcontracted roofing work.
- Defeated summary-judgment motion of insurer asserting no duty to defend insured in case involving loss of thousands of livestock.
- Represented various Fortune 100 and 500 businesses on commercial claims arising in state and federal courts nationwide.
- Defended ExxonMobil in fuel-dealer franchise suit challenging “zone pricing” as illegal price discrimination.
- Represented General Mills in trademark lawsuit against Greek yogurt maker Fage over the use of the word “Total.”

Representative Administrative Law Cases:

- Represented mental-health professional in appeal challenging Department of Human Services and Department of Health background-study disqualification.
- Obtained summary set aside and dismissal of Department of Human Services and Department of Health back-study disqualification of personal-care assistant.
- Obtained summary set aside and dismissal of Department of Human Services and Minnesota Department of Health disqualification that threatened to prevent medical doctor from practicing medicine.
- Obtained summary dismissal of Minnesota Board of Behavioral Health investigation of mental-health professional for complaint alleging violation of professional boundaries with clients.
- Obtained reinstatement of Hmong market’s participation in SNAP program, following the USDA’s disqualification of the market based on alleged “trafficking” of SNAP benefits. Only 3% of disqualified SNAP participants obtain this result.
- Obtained summary dismissal of Minnesota Department of Labor and Industry investigation of historic Minnesota State Fair attraction for alleged violation of child-labor laws.
- Obtained provisional assisted-living home license for assisted-living home in first-ever civil injunction brought by Minnesota Department of Health following lapse of assisted-living home’s license.
- Obtained residential-contractor license for business owner accused by Minnesota Department of Labor and Industry of failing to adequately disclose criminal record, civil judgments, and prior business dealings.
- Successfully tried or resolved Surveillance and Integrity Review Section (SIRS) cases involving Personal Care Assistant (PCA) and substance use disorder treatment programs, agencies, and providers in the Minnesota Health Care Program (MHCP) allegedly receiving up to \$650,000 in Medical Assistance overpayments.
- Successfully tried or resolved Child Care Assistance Program (CCAP) Fraud Unit cases involving CCAP agencies allegedly receiving up to \$200,000 in CCAP overpayments.
- Successfully tried or resolved cases involving family childcare, foster care, and mental health care licensing.

Representative Complex, Class Action, Multi-Party Litigation, Product Liability, and Mass Torts:

- Represented various Fortune 100 and 500 clients in complex, class-action, multi-party, and product-liability matters in state and federal courts nationwide. Subject-matter includes flushable wipes, vapor intrusion, groundwater contamination, medical devices, trademark, cooking spray, and food labeling.

- On national coordinating and national trial counsel team for Fortune 100 and 500 clients in asbestos, benzene, silica, and diacetyl matter in state and federal courts nationwide.

Representative eDiscovery Experience:

- Managed eDiscovery in nationwide class action, serving as subject-matter expert and contact with vendor, project manager, document reviewers, and machine-learning specialists. Used continuous-active learning and other state-of-the-art analytical tools to ensure defensible process that also identified and elevated key documents needed to win at the case's earliest possible stage.
- Developed discovery plans, complied with best practices, implemented, and leveraged discovery analytics and technology, managed the discovery process, and defended and resolved issues arising during discovery.
- Created and implemented Trial Lawyer eDiscovery Initiative, a plan for achieving excellence in eDiscovery by coupling firm's ability to tell a compelling story based on proven themes with the tools to find and digest key case documents.
- Applied pilot eDiscovery program for state agency to hold, collect, and produce relevant documents.
- Extensive knowledge and experience with FOIA, MDPA, and other public-records laws.

AFFILIATIONS:

- Minnesota State Bar Association, Member
- St. Joseph Business Guild, Member
- Minnesota Home Care Association, Business Partner

HONORS & AWARDS:

- *Super Lawyers® Rising Star* (2014–2020)
- 2013 Up & Coming Attorney, *Minnesota Lawyer*
- Witkin Award for Academic Excellence in Negotiations, University of California Hastings College of the Law
- CALI Excellence for the Future Award in Negotiations, University of California Hastings College of the Law
- Certified—OptimalWork Coaching Class: The Science of Mentoring
- Certified—OptimalWork MasterClass: Flourishing at Work

COMMUNITY:

- Volunteer, Lawyers Concerned for Lawyers
- Volunteer, Volunteer Lawyers Network (2019–20)
- Parishioner, St. Joseph's Catholic Church in West St. Paul
- Industry guide and contributor, The Minnesota Catholic