

HOLWELL SHUSTER & GOLDBERG LLP



KEVIN BENISH OF COUNSEL

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Kevin Benish has extensive experience working on matters involving transnational litigation, civil procedure, antitrust, international arbitration, and matters of constitutional law. Among other things, Kevin regularly litigates cases under the Foreign Sovereign Immunities Act and assists clients seeking evidence in aid of foreign proceedings pursuant to 28 U.S.C. § 1782. Kevin has successfully argued cases in both

state and federal courts and has co-authored briefs at every level of the federal judiciary, including an *amicus* brief that was cited by the United States Supreme Court in two separate cases. From 2020 to 2021, Kevin clerked for Judge Susan L. Carney of the U.S. Court of Appeals for the Second Circuit.

In addition to practicing law, Kevin serves as an adjunct professor at the New York University School of Law, where he co-teaches the school's International Litigation and Arbitration course. He writes about issues such as jurisdiction, procedure, sovereign immunity, and data privacy, and has been invited to speak on these topics throughout the United States and abroad. Kevin is also a member of the American Society of International Law.

Kevin maintains an active *pro bono* practice, often representing individuals seeking asylum in the United States and members of the LGBT community who face discrimination. Among other successes, Kevin was part of a team of Holwell Shuster & Goldberg lawyers that secured the first injunction against the second iteration of President Trump's Muslim Ban on behalf of a Syrian asylee in Wisconsin who sought derivative-asylum status for his wife and young child. He also serves as co-chair of HSG's LGBTQIA+ Affinity Group.

NOTABLE CASES

- Secured a unanimous win at the U.S. Supreme Court in favor of the petitioner in *Waetzig v. Halliburton Energy Services, Inc.*, concerning the meaning and application of FRCP 60(b).
- Counsel for individuals and entities in multiple proceedings seeking or resisting discovery under 28 U.S.C. § 1782, including in the Second Circuit Court of Appeals.
- Lead counsel for New York state-court judge as defendant challenging the constitutionality of NY CPLR 7003(c).
- Representing a state-owned instrumentality of the Government of India in U.S. proceedings relating to the enforcement of an international arbitral award.
- Successfully aided in representation of holders of defaulted debt issued by the Democratic Republic of Congo, in enforcement proceedings related to a \$100 million judgment issued by the Southern District of New York.
- Lawyer for Vivendi and subsidiaries, as defendants facing contract-breach and tortious-interference claims in New York Supreme Court, Commercial Division.

- Valassis, a MacAndrews & Forbes company, as plaintiff in litigation against News Corp. and its subsidiaries alleging federal and state antitrust violations, unfair competition, and tortious interference.
- Aided in representation of a Japanese pharmaceutical company in an ICC arbitration arising from its acquisition of a Mexican company of pharmaceuticals and over-the-counter products.

WRITINGS

- Simulated Problems in International Litigation (2020) (co-authored with Linda Silberman & Aaron Simowitz)
- *Whose Law Governs Your Data?: Takedown Orders and “Territoriality” in Comparative Perspective*, 55 Willamette L. Rev. 599 (2019)
- *Pennoyer’s Ghost: Consent, Registration Statutes, and General Jurisdiction After Daimler AG v. Bauman*, 90 N.Y.U. L. Rev. 1609 (2015)
- “Statutory Interpretation in Light of the Morrison Presumption Against Extraterritoriality,” 85 U.S.L.W. 1290 (March 23, 2017) (co-author)
- "Bristol-Myers Squibb v. Superior Court: Practical Implications and Doctrinal Conundrums," *Bloomberg BNA Class Action Litigation Report* (August 14, 2017) (co-author)

CLERKSHIPS

- Hon. Susan L. Carney, U.S. Court of Appeals for the Second Circuit, 2020 – 2021

EDUCATION

- New York University School of Law (J.D., 2016; Managing Editor, *NYU Law Review*; Donald L. Brown Scholar; Albert Podell Best-Written Brief Award, *NYU Marden Moot Court Competition*; Judge Rose L. & Herbert Rubin Law Review Prize; Weinfield Prize)
- University of Wisconsin-Madison (B.A., highest honors, 2007)

BAR AND COURT ADMISSIONS

- New York
- U.S. Supreme Court
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. Court of Appeals, Tenth Circuit
- U.S. Court of Appeals, District of Columbia Circuit
- U.S. District Court, District of Columbia
- U.S. District Court, District of Connecticut
- U.S. District Court, Northern District of Illinois
- U.S. District Court, District of Maryland

- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of Michigan
- U.S. District Court, Eastern District of Wisconsin
- U.S. District Court, Western District of Wisconsin
- U.S. Court of Federal Claims