

Kirkland's 'Bionic Women' Don't Mind Taking on the Boys

By Scott Graham
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Diana Torres just wanted to help out. It was 2001 and her partners Dale Cendali and Claudia Ray were speeding to trial on behalf of the Martha Graham Center of Contemporary Dance. Torres flew from her home base in Los Angeles to spend a month living out of a New York hotel managing the rest of the group's IP practice so that her partners could focus on the high-stakes trial.

Cendali and Ray had lined up witnesses to testify that Graham, the legendary choreographer, had sold her name to the dance company in the 1950s. But no record of the transaction had been uncovered.

An economics major who'd studied accounting, Torres couldn't resist poking through the many banker boxes of dusty records. "All of a sudden I see this document and said, 'Wait a minute. I think this is it!'"

It was a tax document on which Graham had reported the sale of her intellectual property. The win was sealed.

Ray calls it an unforgettable moment. "Pure joy for the client, pure elation that Diana had found it," Ray said.

Moments such as those are the reason Cendali, Ray and Torres are still practicing together after 28 years (along with partner Johanna Schmitt, who's been with them a mere 18 years). Back then they were at O'Melveny & Myers, but today they practice at Kirkland & Ellis. They remain fiercely loyal to each other and the members of their copyright, trademark, advertising and internet group, and proud that a group led predominantly by women can tout their track record of success.

"Dale's all-women litigation team demonstrates how effective a gender-diverse team can be and I am incredibly proud to have her team represent us," said Ainslee Schreiber, associate general counsel for IP at The We Co. (formerly known as WeWork).

They've been especially busy lately. In the last few months Cendali and her group have defended WeWork's



(Photo by David Handschuh/NYU)

L-R: Dale Cendali is a partner at Kirkland & Ellis who heads its copyright, trademark, internet and advertising practice group; Shanti Conway is a partner in Kirkland's New York office; Claudia Ray is a partner in Kirkland's New York office and a member of the firm's IP department; and Mary Mazzello is an intellectual property litigation partner in Kirkland's New York office.

"HQ by WeWork" brand in a Texas trademark action; shot down suits against Epic Games Inc. and Take-Two Interactive by celebrities claiming copyrights on their dance moves; and persuaded the U.S. Supreme Court to let stand a Ninth Circuit decision in favor of Nike in a dispute over a famous photograph of Michael Jordan. Cendali is also defending Take-Two against a company that claims to control the copyrights on LeBron James and other NBA players' tattoos.

Cendali is also part of the appellate team with Orrick Herrington & Sutcliffe that represents Oracle in its copyright battle with Google over the Java programming language. Over the last 20 years she's won multiple cases on behalf of J.K. Rowling and her publishers in IP disputes related to the Harry Potter books and movies.

Cendali wants to make clear that her team does include men. But it is diverse on the basis of sex, as well as sexual orientation. She chalks it up to her experience as a young woman trying to build an IP practice in Big Law in the

early 1990s. Sandra Day O'Connor was still the only woman on the Supreme Court, and IP was widely regarded as a boutique law firm practice.

"I was initially doing a lot of work on my own to credentialize myself, speaking and writing and taking every case I could," she said. "I quickly realized that you can't really do it alone. I wanted to have a team that was very welcoming and open and where people would feel that they could succeed and be themselves."

Rachel Lamkin, who relied on Cendali's group when she was head of litigation at Otter Products LLC, said what stood out to her was Cendali's willingness to hear input from any member of the team, unlike some (often male) senior-level IP lawyers who are confident in their own judgment to a fault.

"There are junior members of her team who could say, 'I'm not sure I agree with that. How about this?'" said Lamkin, even in front of the client. Usually Cendali's original instinct was right, but not every time. "In the fervor of litigation, she was willing to listen until the best idea bubbled up, and it wasn't always hers."

Lamkin, who now runs Lamkin IP Defense, worked with Cendali, Torres and partner Allison Buchner to defeat a competitor's attempt to cancel Otter's LIFEPROOF trademark. She calls Cendali and her team "The Bionic Women."

Even today, Cendali says, "there are some times you go to a trial or a hearing, and it's almost like the boys' side of the room and girls' side of the room. It's almost comical."

Though she takes litigation seriously, Cendali says she tries to maintain a light atmosphere in the workplace. She remembers interviewing for summer associate jobs at firms where everyone seemed to speak in a whisper. "I said, 'Why are we whispering?'" she recalls, in a whisper. "They said, 'It's what we do here, law is a very solemn thing. Everything is sotto voce.'"

"I'm not a sotto voce person," she said.

It's well-known in the group that Cendali is an avid comic book collector. Over the years the partners have gifted her with Wonder Woman mugs, tiaras and bracelets. The group's promotional material echoes the comic vibe.

Schmitt recalls working with Cendali on a case about the X-Men years ago, and describing X-Men as mutants like Spider-Man. "Dale went 'Ah, ha-ha, oh silly you. Spider-man's not a mutant. He was bitten by a radioactive spider.'"

The professional relationships have been forged into friendships through the crucible of repeated trials. "That's something that either bonds you together more closely or breaks you apart," Ray joked.

"I feel like everyone has each other's backs," Schmitt said.

That dynamic applied when the opportunity to join Kirkland came along in 2009. "We didn't want to do something if it were going to be just one person going off by themselves," Ray said.

"It was a group decision," Torres said. "It wasn't Dale, like, 'I'm going. I think you should come with me.'"

All acknowledge Cendali is the leader and chief mentor. Schreiber, of The We Co., said she too was inspired by Cendali when she saw her give a CLE presentation in 1999. "As someone beginning her legal career, I thought, how do I get to be her?" Schreiber said.

Years later, they became "fast friends" after working together on the New York City Bar Association's Council on Intellectual Property, which Cendali chairs. "It has truly been a professional dream come true," Schreiber said.

Cendali has been teaching IP as an adjunct at her alma mater Harvard for the last decade. That gives her more opportunities to mentor, or as she prefers to call it, sponsoring. It meant a lot to her when one of her former students, Mary Mazzeo, recently made partner as part of her group at Kirkland. "Shanti Conway went to Columbia. She's wonderful too," Cendali added.

And there's still litigating, of course. A couple of years ago she squared off at the Second Circuit against Quinn Emanuel Urquhart & Sullivan partner Kathleen Sullivan in a high-profile fair use case. They spoke afterward about the fact it was just women at the lectern.

"I feel pretty confident that neither of us were picked because we were women. I think we were picked because we were experts," Cendali said. "But there are enough experts now that you can have that kind of matchup."