



Matthew I. Menchel

Lawyer

MIAMI

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A nationally recognized and highly regarded trial lawyer, Matthew Menchel focuses his practice on government enforcement defense and complex civil litigation. He often serves as lead counsel on high-profile matters.

Mr. Menchel is widely renowned for his skill in the courtroom. Recognized as “an absolutely first-class trial practitioner” by Chambers USA, he is described as “truly gifted at cross-examinations and at communicating with a jury.” The Daily Business Review has twice chosen him as the “Most Effective Lawyer” in the criminal law category. The presiding judge on a highly publicized, eight-week-long Foreign Corrupt Practices Act trial commented about Mr. Menchel’s trial skills: “his cross-examination was about as textbook an example of a vigorous cross-examination as I’ve ever seen.”

Outside the courtroom, Mr. Menchel oversees the firm’s Trial Advocacy program. In that capacity, he has brought together experienced trial lawyers to exchange ideas and best practices, as well as put on live demonstrations.

Before joining Kobre & Kim, Mr. Menchel was a prosecutor at the U.S. Department of Justice (as an Assistant U.S. Attorney in the Criminal Division of the U.S. Attorney’s Office for the Southern District of Florida), where he was also chief of the Criminal Division. He also served as a prosecutor in the New York County District Attorney’s Office, during which time he trained Assistant District Attorneys in trial advocacy as the director of legal training.

Admissions

- Florida
- New York
- New Jersey
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court for the District of New Jersey
- U.S. District Court for the Middle District of Florida
- U.S. District Court for the Southern District of Florida
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Western District of New York
- U.S. District Court for the Northern District of Illinois
- US District Court for the Northern District of Illinois, Trial Bar

Education

- The City University of New York Law School at Queens College, JD

KOBRE & KIM

- The State University of New York at Binghamton, BA
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Accolades

The Legal 500 United States, General Commercial Disputes

Select Engagements

Government Enforcement Defense

- Representation of DRW Investments LLC in a highly publicized case brought by the U.S. Commodity Futures Trading Commission (CFTC) over alleged market manipulation of interest rate swap futures. After a bench trial in the U.S. District Court for the Southern District of New York, the Court returned a verdict in favor of the defense and against the CFTC on all causes of action.
- Obtained landmark acquittal on behalf of Raoul Weil, former head of UBS Wealth Management and the highest-ranking Swiss banker to stand trial in the U.S., on allegations that he conspired with wealthy Americans to hide US \$20 billion in secret offshore accounts. Kobre & Kim was brought in as special litigation counsel for the trial in Florida, where the firm's aggressive cross-examinations of government witnesses and closing arguments played a key role in crippling the government's case.
- Representation of 3Red Trading LLC and its owner and principal trader, Igor Oystacher, in connection with a potential enforcement action by the U.S. Commodity Futures Trading Commission (CFTC) concerning alleged "spoofing" and market manipulation.
- Representation of Pankesh Patel in the highly publicized, eight-week-long "Foreign Corrupt Practices Act (FCPA) sting operation" in Washington DC. Mr. Menchel took the unusual and bold step of calling the government's lead case agent on the defense's case in chief and aggressively cross examined him to expose the many deficiencies in the implementation of the sting operation. This tactic was widely held to be the turning point in the trial and resulted in a mistrial as to the charges against Mr. Patel and, ultimately, the flaws exposed by Mr. Menchel led the government to voluntarily dismiss the charges against Mr. Patel rather than retry the case.
- Representation of Brian Hunter, the former head of energy trading at Amaranth Advisors LLC, a fund that had US \$9 billion under management, in connection with market manipulation actions by the CFTC and the Federal Energy Regulatory Commission (FERC), a pre-emptive suit against the FERC for overreaching the limits of its jurisdiction, and in the defense of several class and private civil suits. Kobre & Kim obtained complete dismissal of FERC case by a precedent-setting opinion of U.S. Court of Appeals for the DC Circuit that the FERC lacks jurisdiction over energy futures.

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- Representation of a former Credit Suisse banker in prosecution of the U.S. Department of Justice (DOJ) in the U.S. District Court for the Southern District of Florida relating to alleged assistance to U.S. taxpayers in evading tax obligations.
- Representation of hedge fund analyst charged in the Southern District of New York with insider trading offenses related to the merger of two technology companies.
- Representation of several executives in an investigation into a precious metals commodity retailer being conducted by the U.S. Attorney's Office for the Eastern District of New York, as well as in parallel proceedings before the CFTC.
- Representation of a director of a Florida bank owned by a major Portuguese financial group in responding to certain inquiries arising from an internal review of compliance matters conducted by the bank.
- Representation of the CEO of a large publicly traded healthcare company in an investigation by the U.S. Securities and Exchange Commission (SEC) involving options backdating.
- Representation of a U.S. Department of Justice (DOJ) Assistant U.S. Attorney in connection with a special prosecutor's investigation into allegations of criminal contempt arising out of the prosecution and trial of Senator Theodore A. Stevens.
- Representation of a financial executive of a prominent international bank in connection with a pending indictment in the U.S. District for the Southern District of Florida regarding alleged involvement with unreported ratio-swap transactions.

Commercial Litigation and Arbitration

- Obtained a US \$30 million award on behalf of U.S. Airways Inc. against Oppenheimer & Co. Inc. before a Financial Industry Regulatory Authority (FINRA) arbitration panel in New York for alleged violations of securities laws and broker-dealer duties.
- Representation of the Office of the Commissioner of Baseball (MLB) in a lawsuit involving tortious interference with contract by persons and clinics distributing performance enhancing substances to MLB players.
- Representation of the widow of Dr. Atkins (the creator of the Atkins Diet), and beneficiary of an estate worth US \$600 million+, in contest against trustees relating to permissible use of corpus of funds in proceedings in Surrogate's Court of the State of New York and Florida state courts.
- Representation of the trustee of a multimillion-dollar trust in defending against allegations of violations of fiduciary duties.

KOBRE & KIM

- Representation of Microsoft as trial counsel in a patent infringement dispute between Microsoft and DataTern, a patent holding company, over software patents relating to object-oriented programming codes.
- Successful dismissal of 21 suits filed in Florida against an investment capital fund and certain individuals, alleging claims of civil Racketeer Influenced and Corrupt Organizations Act (RICO), fraud, breach of contract, unfair trade practices and civil conspiracy related to the financing of a real estate venture.
- Representation of a commodity futures trading firm in connection with litigation against several clearinghouses and futures and options merchants relating to US \$100 million+ of disputed trades on the Intercontinental Exchange.
- Representation of a real estate investor who was defrauded out of US \$70 million+ in a series of civil actions and as a creditor in a bankruptcy proceeding in the U.S. District Court for the Southern District of Florida and related adversary proceedings.

Healthcare Fraud Defense

- Representation of a Fortune 100 company in the pharmaceutical industry in defending against alleged Racketeer Influenced and Corrupt Organizations Act (RICO) violations in a multidistrict litigation consolidated in the U.S. District Court for the Northern District of Ohio relating to the opioid crisis.
- Representation of American Renal Associates, a publicly traded nationwide dialysis provider, in a suit by United Healthcare, the nation's largest insurer, in the U.S. District Court for the Southern District of Florida related to allegations of a fraudulent scheme to improperly enroll patients on United's insurance policies and submit inflated bills for dialysis treatments provided in Florida and Ohio clinics.
- Representation of a large public hospital district in working closely with their general counsel to investigate alleged misconduct, including kickbacks and theft of government funds, in relation to an investigation being conducted by the DOJ.
- Representation of a prominent Florida doctor in a high-profile criminal case regarding an allegedly massive scheme to defraud the Medicare system. Mr. Menchel was brought in as special litigation counsel to lead the trial over the government's claims that the client submitted fraudulent billings to Medicare.
- Representation of a chief operating officer of a healthcare facility related to violations of the anti-kickback statute and other healthcare-related violations in which the government has intervened in eight separate qui tam actions.

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- Representation of an executive at a prosthetic orthopedic parts manufacturer, under investigation by the DOJ for violation of anti-kickback statute.
- Representation of executives of several healthcare companies in connection with investigations by the DOJ and the U.S. Department of Health and Human Services (HHS) relating to various violations of Medicare and Medicaid laws, including anti-kickback statutes and Pharmaceutical Research and Manufacturers of America (PhRMA) guidelines.
- Representation of two healthcare executives in negotiations and potential arbitration against one of the largest drug retailing corporations in the U.S., arising out of a potential settlement with the New York Attorney General's Office related to Medicaid overpayments.
- Representation of an officer of a pharmaceutical company in connection with an internal investigation regarding possible off-label promotion of certain pharmaceuticals.
- Representation of a former director of a biopharmaceutical company as a witness in an investigation being conducted by the Federal Bureau of Investigations (FBI) and the U.S. Attorney's Office for the Eastern District of New York into allegations of kickbacks paid to pharmaceutical sales representatives, as well as in civil actions against the company.

Professional & Community Involvement

- National Institute for Trial Advocacy and the Cardozo School of Law's Intensive Trial Advocacy Program, Faculty Member
- University of Miami School of Law, Adjunct Professor in the Litigation Skills Program
- American Bar Association, Member

Publications & Presentations

- Guest Contributor, "The Conventional Wisdom That Trial Attorneys Must Avoid" (*Law360*, December 2018)
- Co-author, "Breaking the Rules: 3 Ways to 'Lead' a Direct Examination" (*Law360*, October 2018)
- Co-author, "How To Use Nonleading Questions On Cross-Examination" (*Law360*, September 2016)
- Co-author, "Minimizing Discovery Cost through Effective Trial Strategy" (*Today's General Counsel*, August 2016)
- Guest Contributor, "Trial Pros: Kobre & Kim's Matthew Menchel" (*Law360*, June 2016)
- Speaker, "A View from the Bench: Legends of the Courtroom" (Daily Business Review, Miami, June 2015)
- Speaker, "The New Era in FATCA Enforcement Trials: An Analysis of the Strategies and Tactics that Produced the Weil Victory" (STEP, Zurich, February 2015)

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- Speaker, "U.S. Tax Enforcement Across International Borders With — A Discussion of the Raoul Weil Trial" (STEP, Bahamas, January 2015)
- Moderator, "How to Cross-Examine an Expert Witness" (Webinar, Chicago, September 2013)
- Panelist, "The FCPA Year In Review: Assessing the Biggest Cases of the Year and What Litigators Need to Take Away to Best Protect Their Clients" (American Conference Institute's White Collar Crime Conference, New York, January 2013)
- Moderator, "Persuasive Closing Arguments: A Demonstration and Discussion of a Closing Argument in the Helio Castroneves Case" (Law.com, Webinar, April 2012)
- Moderator, "Cross Border Enforcement: The Role of Prosecutors, Regulators, and Defense Attorneys" (The Florida Bar 10th Annual International Litigation and Arbitration Conference, Miami, February 2012)
- Moderator, "Cross-Examination of a Cooperating Witness: A Demonstration and Discussion Session for Experienced Trial Lawyers" (Law.com, April 2011)
- Co-author, *New York Criminal Law* (West, 2001)

A "fearless and relentless trial lawyer who can walk into a courtroom on any matter in any jurisdiction and command the issues." - *Chambers*