



KEVIN W. PREWITT

PARTNER

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Kevin Prewitt, a member of the firm's Litigation practice group, focuses on many types of legal matters, including employment, insurance coverage, real estate, personal injury, franchise and class action cases including collective and class actions under the Fair Labor Standards Act and Telephone Consumer Protection Act (TCPA), and related Missouri statutes. His experience includes multiple jury trials under the Missouri Human Rights Act and defending franchisees, manufacturers, and real estate brokers and agents against claims brought under the Missouri Merchandising Practices Act and Kansas Consumer Protection Act. He has also defended against class claims alleging the use of an automatic telephone dialing system and litigated disputes regarding consent under the TCPA.

In the area of employment litigation, he defends employers against claims pursuant to the Missouri Human Rights Act and Title VII. His experience includes the successful defense of one of the largest anesthesiologist practice groups in the Midwest against alleged fraud under the federal False Claims Act.

Kevin's insurance coverage practice includes drafting policy language, providing coverage analysis and recommendations, and defending litigation for a variety of coverages and benefits including in the context of life, commercial, property, homeowners, errors and omissions, and automobile. This includes successfully prevailing on policy language-focused theories such as garnishment actions concerning the policies' interpretation and application of policy exclusions; defending insurance companies against direct claims of bad faith, vexatious refusal and related theories for retaliation under state civil rights and workers compensation statutes; obtaining declaratory judgments regarding the insurer's defense and indemnity obligations; and litigating claims between insurers and reinsurers regarding contribution and allocation. In a related capacity, he advises multiple self-insurance pools on plan document drafting, interpretation and application, and supporting defense counsel in resolving litigation against pool members.

Kevin has second-chaired multiple jury trials throughout his career and is well-versed in all phases of discovery, trial preparation, and negotiation of settlements.

EDUCATION

- University of Missouri-Kansas City School of Law (J.D., *magna cum laude*)
 - UMKC Law Review (Board Member and Comment Editor, 2012-2013; Staff Member, 2011-2012)

SERVICES AND INDUSTRIES

Class Action Litigation

Employment and Labor

Franchising and Distribution

Government Relations and
Public Policy

Insurance Coverage Litigation
Litigation

ADMISSIONS

Missouri

Kansas

U.S. District Court, District of
Kansas

U.S. District Court, Western
District of Missouri

U.S. District Court, Eastern
District of Missouri

U.S. Court of Appeals, Eighth
Circuit

- Joseph E. Stevens, Jr. Memorial Prize for outstanding legal writing by a first year law student, CALI Excellence Awards for Introduction to Law II & Advanced Legal Writing: Business Contract Drafting
- The Urban Lawyer (Staff Member, 2011-2012)
- University of Missouri (B.A., *magna cum laude*, 2006)
 - Art History, Classical Studies
 - Athletic Video Department
 - University Honors, Departmental Honors
 - University of Missouri Club Ice Hockey Team
 - Phi Beta Kappa Society
 - Museum Docent

ACCOLADES

- Completed the Kansas City Missouri Bar Association's Ross T. Roberts Trial Academy
- [Missouri/Kansas Super Lawyers®](#), Rising Star (2016-present)

BACKGROUND

Kevin was a law clerk before joining the firm fulltime. Prior to his legal career, he was an operations analyst in the transportation and logistics industry.

EXPERIENCE

Defense Verdict in Employment-Related Jury Trial

Obtained defense verdict in Jackson County, Missouri, jury trial on claims of disability discrimination, employment retaliation, workers' compensation retaliation and whistleblower retaliation. The plaintiff alleged discrimination and retaliation following multiple job-related injuries and when defendant proposed termination following the plaintiff's failure to participate in the defendant's disability accommodation process.

Defense Jury Verdict for Employer in Discrimination Case

We obtained a total defense jury verdict for an employer, in the Circuit Court of Jackson County, Missouri, in a case seeking approximately \$500,000 in damages based on alleged race and age discrimination and constructive discharge under the Missouri Human Rights Act. The plaintiff was a former human resources employee who alleged that she was demoted to a non-human resources assignment based on her age and Hispanic race in an effort to force her to quit employment. The defendant denied that any protected characteristics played a role in the assignment and that the plaintiff quit for a better employment opportunity.

Summary Judgment for Insurer in Garnishment Action

Obtained summary judgment on behalf of an insurer in a garnishment action seeking to collect on a \$5,150,000 arbitration award against the insured. We demonstrated that the insurer correctly denied a defense and indemnity to the insured pursuant to a household resident exclusion of a homeowners insurance policy.

Dismissal of Negligence Claims Against School Officials

Obtained dismissal of negligence claims against public school officials in the Circuit Court of Jackson County, Missouri. The plaintiff alleged wrongful death from a shooting in the parking lot of a public building during a public event. We demonstrated that official immunity barred the claims.

Defense Verdict for Public Entity in Vendor Contract Dispute

We obtained a full defense verdict in a jury trial in Jackson County, Missouri, on behalf of a public entity regarding a contract dispute with a vendor. The plaintiff alleged representations from the public entity's leadership induced performance in support of a claim for breach of warranty ex contractu. The jury agreed with our defense that the representations did not happen and that the plaintiff did not prove damages.

Defense Verdict for Insurance Client

Obtained a defense verdict for our insurance client following a three-week trial. The plaintiff sought \$3.1 million related to a consent decree where it agreed to clean up soil and groundwater contamination from a manufacturing site. The insurers asserted that the plaintiff knew about the contamination for decades and did not properly notify its insurers, and that prior claims had been made associated with the contamination without proper notice. The jury found in favor of the insurers on all claims.

Summary Judgment in Qui Tam Action Alleging Medicare Fraud

Obtained summary judgment on behalf of health care client in a qui tam action under the False Claims Act. In this case, the whistle blower sought over \$1 billion, based on all claims submitted. The judgment, regarding allegation of Medicare fraud, was successfully defended on appeal.

Summary Judgment in \$850,000 Employment Contract Dispute

Obtained summary judgment in Missouri state court on behalf of an employer in the health care and life sciences field. A former employee had sought over \$850,000 in alleged unpaid bonuses.

Defense of Franchisee Against MMPA Claims

Successfully defended a franchisee oil change service against claims under the Missouri Merchandising Practices Act.

Dismissal of Suit for Public Entity in the Education Industry

Won a dismissal after removal to federal court on behalf of a public entity and its employees for failure to exhaust administrative remedies with proper administrative agency.

Preliminary Injunction in Discrimination Investigation Matter

Obtained a preliminary injunction order in federal court enjoining the Missouri Commission on Human Rights from investigating allegations of discrimination filed against client.

Missouri Human Rights Act Trial Work

Tried several Missouri Human Rights Act cases to juries in the Circuit Court of Jackson County, Missouri, including claims of age, race, gender and disability discrimination; race and age retaliation; and age and disability harassment/hostile work environment.

Defense Verdict Regarding Unpaid Overtime Allegations

Secured a defense verdict in a Jackson County, Missouri, jury trial regarding a former employee's allegations of unpaid overtime, in violation of the Missouri Minimum Wage Law.

Summary Judgment for Restaurant Client on Title VII Claims

Obtained summary judgment on Title VII claims in Kansas federal court for client in restaurant industry. The plaintiff alleged race discrimination, harassment and retaliation, and sought \$225,000 in damages.

Compelled Arbitration in Putative Class Action Against Consumer Website

Represented a consumer home services website in U.S. District Court for the Eastern District of Missouri against allegations by the plaintiff, on behalf of a putative Missouri class, of Telephone Consumer Protection Act violations. We successfully compelled arbitration of all claims pursuant to the arbitration provision in the website's terms of use.

Summary Judgment on Judicial Estoppel Grounds in Discrimination, Retaliation Case

Obtained summary judgment in the Circuit Court of Jackson County, Missouri, on judicial estoppel grounds to prevent a client's former employee from proceeding with claims of discrimination and retaliation under the Missouri Human Rights Act. We persuaded the court that the plaintiff's failure to disclose the underlying charges of discrimination during his earlier Chapter 13 bankruptcy action constituted an inconsistent statement that prevented him from asserting such claims going forward.

Defense Verdict in Jury Trial for School District

Obtained a defense verdict in a Jackson County, Missouri jury trial in favor of our client, a school district. The plaintiff alleged reverse race discrimination, harassment and retaliation related to his termination as a constructive services department manager. The court entered summary judgment on the harassment and retaliation claims just before trial. The jury returned a unanimous defense verdict on the reverse discrimination claim.

Defense Verdict in Discrimination, Retaliation Case

Obtained a defense verdict in a Jackson County, Missouri jury trial on claims of race, gender, and national origin discrimination and retaliation. The plaintiff alleged that she did not receive a new contract as a school vice principal after making complaints of retaliation under the Missouri Human Rights Act.

Summary Judgment for Life Insurance Company Relating to \$1.5 Million Death Benefit

Secured summary judgment for a life insurance company alleged to have wrongfully denied a \$1.5 million death benefit by demonstrating that the purported beneficiary waived any claim to the death benefit through a marriage settlement agreement.

Obtained Defense Verdict for School District on Discrimination, Retaliation Claims

Obtained a full defense jury verdict in Jackson County, Missouri, circuit court for a school district on claims of race and disability discrimination and retaliation under the Missouri Human Rights Act, and retaliation under Missouri's public employee whistleblower protection statute. The plaintiff, who had been terminated from employment following discovery of time fraud, sought more than \$500,000 in damages.

Summary Judgment for School District in Disability Discrimination Case

Obtained summary judgment for a public school district in a disability discrimination case under the Missouri Human Rights Act. The plaintiff argued that a disability prevented her from performing job duties that became necessary due to distance learning models when schools were closed due to COVID-19. Although the job duties were not explicitly discussed in the job description for her position, we demonstrated that the job duties were essential, performed by all other employees in the department,

and there was no other vacant position for which the plaintiff was qualified.