



PATRICK J. KENNY

PARTNER

St. Louis, MO

314.552.6613

pkenny@atlfp.com



Patrick Kenny is a trial attorney with significant experience in class actions, bad faith and insurance coverage disputes, ERISA litigation (pension and benefits), subrogation, disputes over business transactions, noncompete agreements and fraud litigation. He has tried jury cases to verdict in Missouri and Illinois, handled and supervised numerous appeals, and served as a neutral in scores of cases. He also serves as an expert witness with respect to insurance coverage issues.

Patrick was named the Best Lawyers® 2016 Insurance Law “Lawyer of the Year” in St. Louis and has received numerous other recognitions in connection with his insurance and commercial litigation practices. Those include long term listings in Best Lawyers® for Insurance Law, as a Top Rated Lawyer in Commercial Litigation by Martindale-Hubbell and American Lawyer Media (ALM), as a “Super Lawyer” by Missouri/Kansas Super Lawyers / Super Lawyers Business Edition, and inclusion in Chambers USA’s Missouri insurance lawyers listing in America’s Leading Lawyers for Business.

In addition to his substantial insurance practice Patrick chairs the firm’s Class Action Practice Group and co-chairs the firm’s Pro Bono Committee.

Patrick also serves numerous leadership roles in professional organizations focused on insurance law and commercial litigation. He long has been active with Lex Mundi, an international law group, and serving as the Chair of its Insurance / Reinsurance Practice Group from 2013 to 2019. He also served as the Editor-in-Chief of Daubert Online published for many years by DRI, served for many years on the Steering Committee for DRI’s Commercial Litigation Committee, and has served in many other positions for the Commercial Litigation Committee and the Life, Health and Disability Committee of DRI.

Patrick frequently presents in trainings and seminars, both public and private (in-house), on commercial and insurance matters.

EDUCATION

- University of Missouri School of Law (J.D., *cum laude*, 1990)
 - Order of the Coif
 - University of Missouri Law Review (Member)
 - Business Law Teaching Assistant (1988-1989)
- University of Missouri (B.S.B.A., 1987)
 - Chemistry and Operations

SERVICES AND INDUSTRIES

Class Action Litigation
Insurance Coverage Litigation
Life, Health, Disability and
ERISA Litigation
Noncompete and Trade
Secrets
Appellate

ADMISSIONS

Missouri
Illinois
Kansas
District of Columbia
U.S. District Court, District of
Columbia
U.S. District Court, Eastern
District of Missouri
U.S. District Court, Western
District of Missouri
U.S. District Court, Southern
District of Illinois
U.S. District Court, Central
District of Illinois
U.S. District Court, Northern
District of Illinois
U.S. District Court, District of
Kansas
U.S. Court of Appeals, Seventh
Circuit
U.S. Court of Appeals, Eighth
Circuit
U.S. Court of Appeals, Tenth
Circuit

PROFESSIONAL ACTIVITIES

- Fellow in the American College of Coverage Counsel
- Claims & Litigation Management Alliance, CLM (Member, 2013-present)
- Defense Research Institute (Editor in Chief, *Daubert Online*, 2006-present; Co-Editor in Chief, Reservation of Rights Compendium, current; Compendium Vice Chair, Insurance Law Committee, current; Marketing Chair, Complex Coverage Forum, current; Steering Committee - Commercial Litigation Committee, 2003-2013; Expert Witness Chair, 2003-2013; Steering Committee - Life, Health and Disability Committee; Expert Witness Chair, 2016-2018; Panel Counsel Vice Chair, 2012-2013)
- Missouri Organization of Defense Lawyers (Member, 2002-present; Speaker, 2003 Annual Meeting)
- Lex Mundi (Chair, Insurance and Reinsurance Committee, 2013-2019; Regional Vice Chair, 2012-2013)
- The Missouri Bar (Panel Member, Complaint Resolution Program, inception-present)
- Alpha Chi Sigma Chemistry Fraternity, St. Louis Professional Chapter (Member, inception to present; Treasurer, 2004-present)
- Association of Certified Fraud Examiners (Associate Member, 2006-2011; St. Louis Chapter, Director, 2007-2011)
- Bar Association of Metropolitan St. Louis (Chair, Pro Bono Committee, 2012; Co-Chair, Pro Bono Committee, 2013; Co-Chair, Bench and Bar Relations Committee, 2000-2002)
- Phi Delta Phi Legal Fraternity (Vice-Magister, 1989-1990)

CHARITABLE AND CIVIC INVOLVEMENT

- Alpha Chi Sigma, St. Louis Professional Chapter (Treasurer, 2004-present)
- Academy of the Sacred Heart (Board of Trustees, 2008-2015; Parents Coordinating Council—Board Member, 2003-2008; President, 2007-2008)
- St. Louis Hearing and Speech Center (Board Member, 1996-2004, 2006-2011, 2013-2019; President, 2002, 2003, 2011; Vice President, 2001)
- Small Claims Mediation Program (Founder)

ACCOLADES

- *The Best Lawyers in America*[®]; Insurance Law and Commercial Litigation (more than 15+ consecutive years, including the latest edition); “Lawyer of the Year” - Insurance Law (2016)
- Multi-year listing as Top Rated Lawyer in Commercial Litigation by *Martindale-Hubbell* and *American Lawyer Media (ALM)*
- [Missouri/Kansas Super Lawyers](#)[®] (multi-year); *Super Lawyers*[®], Business Edition

Supreme Court of the United States

Board of Veterans Claims

Court of Appeals for Veterans Claims

U.S. District Court, District of Nebraska

- Chambers USA: America's Leading Lawyers for Business: Insurance Law (2020-present)
- In 2020, Patrick was asked to serve as Co-Editor in Chief by the Defense Research Institute (DRI) for the 2020 Reservation of Rights Compendium
- Lex Mundi Insurance/Reinsurance Practice Group, Chair (2013-2019), Regional Vice Chair (2012)
- In 2004, Patrick was asked by the Defense Research Institute (DRI) to serve as the Editor-in-Chief to its then new Daubert Online newsletter, which DRI published nationwide for more than 15 years
- "40 Under 40 Award," *St. Louis Business Journal* (2003)

BACKGROUND

Before joining the firm, Patrick served as a judicial clerk for Judge Pasco Bowman of the U.S. Court of Appeals for the Eighth Circuit.

When not practicing law, Patrick serves on the boards of various non-for-profit and charitable entities. He enjoys running, duplicate bridge, chess and travel. Between his clerkship and the start of his law practice Patrick traveled west around the world.

EXPERIENCE

Summary Judgment Granted for Insurer on Specified Premises Endorsement

Suit was filed against an insured following an automobile accident involving a fatality. Client insurer filed a declaratory judgment action in the United States District Court for the District of Kansas concerning interpretation of the Specified Premises Endorsement in a commercial general liability insurance policy. Competing cross motions for summary judgment were filed. The court granted the client's motion for summary judgment and denied the competing motion for summary judgment.

Summary Judgment Granted for Insurer on Definition of "Occupying"

Plaintiffs filed suit against client insurer for vexatious refusal to pay uninsured motorist benefits under a commercial auto policy. At issue was whether the insured was "occupying" his vehicle, as the term was defined in the policy, when he was hit by an unknown driver. Client insurer filed a motion for summary judgment. The United States District Court for the Eastern District of Missouri granted the client's motion for summary judgment and plaintiffs did not appeal.

Summary Judgment on \$21+ Million Vexatious Refusal Claim

Secured summary judgment for insurer regarding in a high-stakes insurance coverage/vexatious refusal action arising from a class action. The plaintiff had sought more than \$21 million from the insurer client ostensibly for damages incurred litigating and settling an \$80+ million consumer class action suit alleging violations of the Uniform Commercial Code.

\$2 Million Defense Verdict for Insurance Client

Defended an insurance company in an attempt by another insurer to recover a majority of \$2 million in defense costs incurred while defending a co-insured in a class action lawsuit. After an unsuccessful mediation and substantial summary judgment briefing,

the Jackson County Circuit Court entered judgment in the client's favor, adopting the argument that the client had no duty to defend because the underlying lawsuit's allegations did not allege facts to bring it within coverage.

Successful Intervention Under Amended 537.065 and Then Win on the Merits

Successfully intervened in underlying tort suit on behalf of insurance company following insured's entry into R.S.Mo. 537.065 agreement. We later obtained summary judgment on claims against insured and then secured affirmance of that judgment on appeal.

Successful Resolution of Telephone Consumer Protection Act (TCPA) Class Action

Secured a less than cost of defense settlement for client that was sued in a putative nationwide class action for alleged extensive intentional violations of the TCPA for advertisements sent to prospective customers by facsimile.

Summary Judgment for Insurance Client

Secured a summary judgment for insurance company in a case before the U.S. District Court for the District of Kansas. The matter involved a traffic accident in which the plaintiffs recovered the full policy limits under the insured's business auto policy, but their claim was denied under the insured's general liability policy. The Court found that the general liability policy's auto and mobile equipment exclusions applied in this case.

Summary Judgment in a \$25+ Million Suit for Insurance Client

Secured a summary judgment for insurance client in a Missouri state court case where the insureds had entered agreements under R. S. Mo. 537.065 with the tort plaintiff, who had been wrongfully imprisoned nearly 20 years, leading to a \$25 million judgment against the insureds. The matter involved trigger issues and number of occurrences, and the Court accepted the insurer's argument that under applicable law there was only one trigger and that preceded the insurer's earliest policy period.

Win On Significant Coverage Appeal

Obtained win in the appellate court after tort plaintiff was unsuccessful in his trial court coverage challenges, centered on the concurrent proximate cause doctrine. The insurance client had Armstrong Teasdale take over the matter on appeal involving artful pleading by the plaintiff and close questions of Missouri law.

Win at Trial and Then Appeal in Putative Class Coverage Suit

Successfully fended off class certification in the trial court, forcing a *de minimis* judgment on the individual claim, and then secured an appellate win in the appeal from the same. The suit involved policy construction and ambiguity claims, with the appellate court ruling against application of the *contra proferentem* doctrine in light of our policy construction arguments.

Secure Reversal in Favor of Insurance Client on \$10 Million Appeal

Part of the team that secured reversal in the Court of Appeals of a \$10 million coverage ruling involving complex indemnity relationships and competing towers of insurance coverage. The Court of Appeals ruled in favor of our insurance client based on applications of the anti-subrogation rule and the rule against circuitous actions.

THOUGHT LEADERSHIP

November-December 2023

The Inconsistently Understood Fronting Policy

For the Defense

October 6, 2023

CO Division of Insurance Finalizes AI, Data Regulations Impacting Insurers

December 9, 2021

Eleventh Circuit Bankruptcy Decision Marks Significant Implications for Insurance Companies, Their Counsel

December 3, 2021

New Iteration of Expert Opinion on Legal Questions Rejected

Daubert Online

Fall 2021

A.M. Best's Missouri Digest of Insurance Laws

Coming in 2021

DRI 2021 Reservation of Rights Compendium, Co-Editor in Chief and Co-Author, Missouri Chapter

Spring 2021

The Real Problem with Testimony as to Legal Conclusions

DRI's Daubert Online

Spring 2021

Untimely Opinion Testimony on Legal Issues Held Inadmissible

DRI's Daubert Online

October 23, 2020

The Thin Grey Line (Between Rules 701 and 702)

DRI's Daubert Online

October 23, 2020

A Reminder from the Eighth Circuit to Be Cautious When Providing Confidential Information to Experts

DRI's Daubert Online

October 2020

A.M. Best's Missouri Digest of Insurance Laws

May 12, 2020

One Small Step for Daubert

DRI's Daubert Online

May 12, 2020

Ruling Notes the Problems with Hedonic Expert Testimony, and Provides a Reminder: Daubert Check Your Own Experts

DRI's Daubert Online

October 14, 2019

Ipse Dixit Alone Qualifies as Substantial Evidence in Agency Proceedings

DRI's Daubert Online

October 14, 2019

Experts May Opine Based on Factual Assumptions but May Not Opine that Disputed Facts Actually Occurred

DRI's Daubert Online

April 19, 2019

Can You Sue Your Opponent's Expert?

DRI's Daubert Online

February 5, 2019

Blockchain and Insurance

Lex Mundi Blockchain White Paper Series

October 15, 2018

Anything (Your Expert) Says Can and Will Be Used Against You (Later) in a Court of Law (Maybe)

DRI's Daubert Online

October 15, 2018

The Eighth Circuit Provides Helpful Reminder of the Requirements for Expert Differential Analysis

DRI's Daubert Online

Fall 2017

A Lesson in Sharing: Recommendations and a Proposed Legislative Approach to Help Address the Problem of Multiple Insureds and Insufficient Policy Limits

New Appleman on Insurance: Current Critical Issues in Insurance Law, Pub. No. 60098, Rel. # 44

June 8, 2017

Recent Supreme Court Ruling Spares Church Plans from the Surge of ERISA Fiduciary Duty Litigation

May 26, 2017

Statutory Changes Promise Procedural Relief from Bad Faith Set-ups in Missouri

Spring 2017

The Inexorable March to Daubert

DRI's Daubert Online

Spring 2017

The Eighth Circuit Dismisses Appeal From Order Addressing Appointment Of Experts Under Rule 706

DRI's Daubert Online

January 5, 2017

Attorneys Write Series on Life Insurance Clauses for DRI Newsletter

DRI Newsletter

December 2016

Nevada's Treatment of the Suicide Exclusion Clause in Straight Life Insurance Policies

DRI Life, Health and Disability Newsletter

December 2016

Suicide Exclusions in Life Insurance Policies: Illinois

DRI Life, Health and Disability Newsletter

Spring 2016

In Order to Form a More Perfect Expert

DRI's Daubert Online

Spring 2016

District Court Provides Good Reminder on the Use of 'Rebuttal' Experts

DRI's Daubert Online

2016

DRI 2016 Duty to Defend Compendium, Missouri Chapter; addressing duty to defend, coverage litigation and bad faith

Fall 2015

Relaxed Daubert Test Applied in 'Lone Pine' Proceeding

DRI's Daubert Online

2015

The Use Of Experts In Litigation

Chapter 21 of the New Appleman Insurance Law Practice Guide

June 3, 2014

Use chemicals in your business? Read your insurance policy: You might not be covered.

Spring 2014

Is It Time to Start Using Rule 706?

DRI's Daubert Online

Spring 2014

The Value of Not Filing a Pre-Trial Daubert Challenge

DRI's Daubert Online

Fall 2013

More Lessons on Improper Contact with Experts

DRI's Daubert Online

Fall 2013

A Degree in a Relevant Field Might Not Be Sufficient for Expert Testimony to Survive a Daubert Challenge

DRI's Daubert Online

Spring 2013

Do Experts Have Standing to Appeal from Daubert Rulings? Right Now They Might

DRI's Daubert Online

Spring 2013

Expert's Comparison Against Averages Leads to the Exclusion of Lost Profits Opinion

DRI's Daubert Online

Fall 2012

Challenges to Rebuttal Expert Opinion

DRI's Daubert Online

Spring 2012

Does Your Expert Have Too Much Information?

DRI's Daubert Online

Fall 2011

Tips from the Trenches—On the Other Side

DRI's Daubert Online

Spring 2011

Undesignating Expert Witnesses

DRI's Daubert Online

2011 Edition

Expert Witness Discovery

New Appleman Insurance Law Practice Guide

November 2010

Experts and Testimonial Immunity

DRI's Daubert Online

July 2010

Daubert Challenges During Class Certification

DRI's Daubert Online

May/June 2009

Why Liability Insurers Are Not Fiduciaries to Their Insureds and Why Missouri Courts Should Stop Saying That They Are

Journal of the Missouri Bar, vol. 65, 135

May 2008

Inadvertent Disclosure of Privileged Information to an Expert Witness

DRI's Daubert Online

May 2008

Experts Should Test Alternative Designs or Be Able to Justify Scientifically the Absence of Testing; Differential Diagnosis Can Satisfy Daubert Only if Potential Causes Are 'Ruled in' and 'Ruled out'

DRI's Daubert Online, Seventh Circuit Report

2008

Expert Witness Discovery (Chapter)

New Appleman Insurance Law Practice Guide

August 2007

What Can You Do about Your Opponent's Junk Science Expert?

DRI's Daubert Online

August 2007

Expert Testimony May Be Admitted Based on a Report in Substantial Compliance with Rule 26(a)(2)(B); A Contaminated Crime Scene Renders Testimony Based on the Behavior of a Tracking Dog Unreliable

DRI's Daubert Online, Seventh Circuit Report

Spring 2007

Countering Contra-Insurer: Construction Principles, Arguments and Defenses That Level the Contract Interpretation Playing Field

Defense Research Institute (DRI)

2007

Demystifying Insurance Disputes (Chapter)

Inside the Minds: Insurance Dispute Resolution Proceedings, Aspatore Books

December 2006

Pay Attention to Experts' Professional Affiliations

DRI's Daubert Online

December 2006

Daubert Applies to Bench Trials, But the Ruling Can be Deferred to Trial

DRI's Daubert Online, Seventh Circuit Report

August 2006

Don't Let Legal Training Interfere with the Practice of Law

DRI's Daubert Online

August 2006

A Physician First Must 'Rule in' the Defendant's Product as a Potential Cause before a Differential Diagnosis Is Admissible Under Daubert

DRI's Daubert Online, Seventh Circuit Report

April 2006

The Plaintiff's Game Plan

DRI's Daubert Online

April 2006

**Expert's Initial Opinions Are Not Relevant after a Change in Facts: Experts May Testify
Solely Based on Experience**

DRI's Daubert Online, Seventh Circuit Report

EVENTS

May 17, 2023

The Concurrent Proximate Cause Trap & Related Strategies

2023 Work Comp, Casualty & Risk Management Conference, Chicago, Illinois

May 12, 2023

The Care & Feeding of Fronting Policies

American College of Coverage Counsel 11th Annual Meeting

March 17, 2022

Claim Handling in Missouri

Client In-House Continuing Education

March 16, 2022

Claim Handling in Missouri

Client In-House Continuing Education

October 13, 2021

Claim Handling in Missouri

Client In-House Continuing Education

October 6, 2021

Claim Handling in Missouri

Client In-House Continuing Education

August 12, 2021

**Multiple Insureds With Insufficient Limits: The Law, Considerations, and
Recommendations**

CLM 2021 Annual Conference

June 17, 2021

**Multiple Insureds With Insufficient Limits: The Law, Considerations, and
Recommendations**

CLM Annual Meeting

2015

The Shifting Sands of Missouri Bad Faith

Client In-House Continuing Education Program

2015

Dispute Resolution Strategies

Lex Mundi Insurance/Reinsurance Legal Summit

Fall 2014

International Litigation Strategies

Lex Mundi Insurance/Reinsurance Cross-Border Legal Summit

September 2014

Evolving Law of Insurance Bad Faith

Missouri Bar Master Series

September 2013

Insurance Dispute Resolution—U.S. Perspective

Lex Mundi Insurance/Reinsurance Cross-Border Legal Summit

July 2013

Selected Coverage Issues—Missouri Law

Client Webinar Presentation

2010

Experts Beware: What You Say (and Do) Continues to Be Used Against You in a Court of Law

International Symposium on Fire Investigation Science and Technology

December 2009

Expert Witnesses in Insurance Cases

Missouri Bar CLE Program

August 2008

Practical Tips, Traps and Procedure in Daubert Practice

Eighth Circuit Judicial Conference

2008

Experts Beware: What You Say Can Be Used against You in a Court of Law

Selected Abstract, 2008 International Symposium Fire Investigation Science and Technology

June 2006

Experts Beware: Ignoring the Scientific Method Results in the Exclusion of Opinions

2006 International Symposium on Fire Investigation, Science and Technology

December 2005

Computer Fraud

Greater Kansas City Area Chapter of the Association of Certified Fraud Examiners

June 2005

Drawing the Line on Attorney Communications

Armstrong Teasdale Business Litigation Ethics Seminar

May 2005

Computer Fraud

Greater St. Louis Area Chapter of the Association of Certified Fraud Examiners

NEWS

November 14, 2023

Over 30 Armstrong Teasdale Lawyers Among 2023 Missouri & Kansas Super Lawyers®, Rising Stars

June 2, 2023

Armstrong Teasdale Lawyers Named in Chambers USA's 2023 Edition

November 14, 2022

Dozens of Armstrong Teasdale Lawyers Among 2022 Missouri & Kansas Super Lawyers®, Rising Stars

August 18, 2022

130+ Armstrong Teasdale Lawyers Named 2023 Best Lawyers in America®, Ones to Watch

June 2, 2022

Armstrong Teasdale Attorneys Recognized as Leading Lawyers in Chambers USA's 2022 Edition

November 17, 2021

Armstrong Teasdale Attorneys Named 2021 Missouri & Kansas Super Lawyers®, Rising Stars

August 19, 2021

Over 120 Armstrong Teasdale Attorneys Recognized as 2022 Best Lawyers in America®

May 20, 2021

Armstrong Teasdale Attorneys Ranked in Chambers USA's 2021 Edition

November 16, 2020

Armstrong Teasdale Attorneys Named 2020 Missouri & Kansas Super Lawyers®, Rising Stars

August 20, 2020

Over 100 Armstrong Teasdale Attorneys Nationwide Recognized as 2021 Best Lawyers in America®

May 4, 2020

2020 Chambers USA Features Armstrong Teasdale Attorneys Nationwide

November 13, 2019

Armstrong Teasdale Attorneys Named 2019 Missouri & Kansas Super Lawyers®, Rising Stars

August 15, 2019

Armstrong Teasdale Attorneys Across the Country Recognized as 2020 Best Lawyers in America®

November 12, 2013

Patrick Kenny Invited to Join Claims and Litigation Management Alliance

September 9, 2013

Patrick Kenny Leads Lex Mundi Panel Discussion in Germany

February 25, 2013

Patrick Kenny Chosen as Lex Mundi Insurance and Reinsurance Committee Chair