



Appellate Practice

Our Law Firm is Different by Design

The Tueth Keeney Appellate Practice Group provides clients with highly sophisticated and experienced representation before state and federal appellate courts on a wide range of issues impacting businesses, individuals, government entities, and educational institutions. We assist clients in navigating challenging strategic questions about whether, when, where, and what to appeal—and how to respond to an appeal filed by someone else. We carefully evaluate statutes, constitutional provisions, and judicial precedents in order to craft and present written and oral arguments in appeals that involve especially complex legal issues. We represent not just parties to appeals, but as counsel amicus curiae—a “friend of the court”—we assist others who want to persuade courts to rule in a way that protects broader interests. And we are available to assist other attorneys with oral argument preparation and with briefing significant appeals.

Our Appellate Practice Group is led by James (“Jim”) Layton – Missouri’s first Solicitor General, the State’s principal appellate lawyer—who has personally argued more than 90 cases in the Missouri Supreme Court and four in the United States Supreme Court. Members of the Group have handled hundreds of appeals, including appeals in all districts of the Missouri Court of Appeals; the Missouri Supreme Court; the Illinois Appellate Courts; the Illinois Supreme Court; the Seventh, Eighth, and District of Columbia United States Circuit Courts of Appeals; and the Supreme Court of the United States.

Appeals handled by members of our Appellate Practice Group have dealt with a wide range of issues, from contractual disputes, to school funding, to challenges to the constitutionality of statutes and policies, and to complicated revenue and tax disputes. Among the appeals we have handled for our clients are:

Federal appellate courts:

- *Trinity Lutheran Church of Columbia, Inc. v. Comer*, ___ S.Ct. ___ (U.S., June 26, 2017), 788 F.3d 779 (8th Cir. 2015), regarding Missouri’s constitutional provision barring the State from giving tax funds to churches.
- *K.T. v. Culver-Stockton College*, ___ Fed.3d ___ (8th Cir., Aug. 1, 2017), regarding a college’s Title IX liability for injury suffered by a prospective student visiting campus.
- *Vance v. Ball State University*, 133 S.Ct. 2434 (2012), as counsel for amici regarding the definition of supervisor under Title VII.

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- *Missouri Director of Revenue v. CoBank ACB*, 531 U.S. 316 (2001), regarding taxation of a federal instrumentality.
- *Hatcher v. Board of Trustees of Southern Illinois University*, 829 F.3d 531 (7th Cir. 2016), regarding proof of pretext in a gender discrimination case involving denial of tenure.
- *Southern Wine & Spirits of Am., Inc. v. Div. of Alcohol & Tobacco Control*, 731 F.3d 799 (8th Cir. 2013), regarding state regulation of liquor wholesalers.
- *Smith v. ConocoPhillips Pipe Line Company*, 801 F.3d 921 (8th Cir. 2015), regarding class certification of property damage and medical monitoring claims.
- *Christian Legal Society v. Walker*, 453 F.3d 853 (7th Cir. 2006), regarding First Amendment expressive association claims.

Federal appellate courts:

- *Doe v. St. Louis Cmty. Coll.*, ___ S.W.3d ___ (Mo. Ct. App. E.D. July 11, 2017), regarding Missouri community college tuition rules and immigration status.
- *Tivol Plaza v. Missouri Commission on Human Rights*, ___ S.W.3d ___ (Mo. 2017) (pending), regarding the scope and timeliness of complaints made to the Missouri Commission on Human Rights.
- *Southwestern Bell Telephone Company v. Director of Revenue*, 454 S.W.3d 871 (Mo. 2015), regarding the effect of a corporate reorganization on franchise tax liability.
- *Breitenfeld v. School Dist. of Clayton*, 399 S.W.3d 816 (Mo. 2013), regarding the application of Missouri's "Hancock Amendment" to transferring school students.
- *Manzara v. State*, 343 S.W.3d 656 (Mo. 2011), regarding standing to challenge tax credits.
- *School Dist. of Kan. City v. State Of Mo.*, 317 S.W.3d 599 (Mo. 2010), regarding the relationship between Missouri's "Hancock Amendment" and payments to charter schools.
- *Keveney v. Missouri Military Academy*, 304 S.W.3d 98 (Mo. 2010), regarding the rights of contractual employees to assert wrongful discharge claims.
- *Committee for Educational Equality v. State*, 294 S.W.3d 477 (Mo. 2009), regarding Missouri's "foundation formula" for public schools.
- *Public Communications Services, Inc. v. Simmons*, 409 S.W.3d 538 (Mo. Ct. App. W.D. 2013), regarding competitive bidding of a contract for telephone service.
- *Degraffenreid v. State Bd. of Mediation*, 379 S.W.3d 171 (Mo. Ct. App. W.D. 2012), regarding a union election for personal care attendants
- *State v. Nationwide Life Ins. Co.*, 340 S.W.3d 161 (Mo. Ct. App. W.D. 2011), regarding a breach of contract by the provider of financial services for a retirement plan.

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- Massey v. Normandy Sch. Collaborative, 492 S.W.3d 189 (Mo. Ct. App. E.D. 2016), regarding school district accreditation and student transfers.
- Mo. Ethics Comm'n v. Fountain-Henderson, 502 S.W.3d 70 (Mo. Ct. App. E.D. 2016), regarding enforcement of an investigative subpoena.
- Johnson v. State, 2001 Mo. App. LEXIS 935 (Mo. Ct. App. S.D. 2001), regarding finding someone to be a sexually violent predator.
- Eaton v. Director of Revenue, 929 S.W.2d 282 (Mo. Ct. App. S.D. 1996), regarding the forfeiture of a driver's license for alcohol offenses.

Illinois appellate courts:

- Cheng v. Ford (Ill. App. No. 15-MR-52, Aug. 9, 2017), regarding the when a claim against a state official discharging her duties as such must be filed in the Court of Claims.
- Beggs v. Bd. of Ed. of Murphysboro Comm. Unit School Dist. No. 186, 2016 Ill. LEXIS 1502 (Ill. 2016), regarding the power of local school districts to discharge tenured teachers.
- Peile v. Skelgas, Inc., 163 Ill. 2d 323 (Ill. 1994), regarding the validity of the doctrine of intra state forum non conveniens under Illinois law.
- Carstens-Wickham v. Sedycias, 60 N.E.2d 138 (Ill. App. 2016), regarding sovereign immunity of state university employees.

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