



## James R. Layton

ATTORNEY AT LAW

### Contact Information

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34 N. Meramec Avenue, Suite 600  
St. Louis, Missouri 63105

### Practice Areas

Appellate Practice  
Commercial Litigation  
Higher Education  
Labor & Employment  
Missouri Education

### Bar Admissions

Missouri Bar  
U.S. Supreme Court  
U.S. Court of Appeals for the Eighth Circuit  
U.S. Court of Appeals for the D.C. Circuit  
U.S. Court of Appeals for the Federal Circuit  
U.S. Court of Appeals for the Fourth Circuit  
U.S. Court of Appeals for the Seventh Circuit  
U.S. Court of Appeals for the Ninth Circuit  
U.S. District Court for the Western District of Missouri

DIFFERENT  
BY DESIGN™

Jim Layton joined the firm in 2017 after serving more than 22 years in the Missouri Attorney General's Office—nearly all of those as the State's principal civil appellate lawyer, Solicitor General.

Jim practices in both appellate and trial courts, particularly in matters involving complex legal questions, including those arising under the U.S. and Missouri constitutions, Missouri school funding and other education statutes, discrimination laws, and [Missouri tax laws](#). He represents both private and public entities.

In addition to handling cases at Tueth Keeney, Jim assists clients, in-house counsel, and counsel at other firms with appellate strategy, motions, briefing, and argument. In doing so, he relies on many years of intense appellate experience: Jim has argued more than 90 times before the Missouri Supreme Court, four times before the U.S. Supreme Court, and more than 100 times in other state and federal appellate courts. Since joining Tueth Keeney, Jim has been retained repeatedly to assist with applications to transfer appeals to the Missouri Supreme Court.

Jim's experience in working with high-level government officials and state boards and commissions gives him special insight into government and regulatory decision-making. He has been consulted on a wide range of issues relating to Missouri laws regulating public and private entities.

An adjunct professor of law at the University of Missouri for 20 years, Jim is a frequent speaker on appellate practice, legal writing, constitutional law, and issues arising from new appellate decisions.

A long-time leader in the appellate bar, Jim has served as Co-Chair of the Appellate Practice Committee of The Missouri Bar, Chair of the American bar Association's Council of appellate Lawyers, President of the Bar Association of the U.S. Court of Appeals for the Eighth Circuit, and President of the Elwood Thomas American Inn of Court. He serves on task forces for both the American Academy of Appellate Lawyers and the Missouri courts dealing with remote court proceedings and electronic filing.

### Education

J.D., Brigham Young University, magna cum laude, 1982

B.S., Brigham Young University, magna cum laude, 1977

### Professional Affiliations

- The Missouri Bar (Civil Practice and Administrative Law Committees)
- American Academy of Appellate Lawyers

### Honors and Awards

- Elected Fellow, American Academy of Appellate Lawyers, 2010
- Missouri Bar Foundation Spurgeon Smithson Award for outstanding contributions to the administration of justice, 2010
- University of Missouri-Columbia School of Law Distinguished Non-alumnus, 2010
- Missouri Lawyers Weekly Influential Appellate Advocate, 2012



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U.S. District Court for the Western District of Missouri

### Significant Appeals

- *Lin v. Ellis*, No. SC97641 (Mo. 2020). The Missouri Supreme Court held that a Missouri Human Rights Act retaliation claim cannot be based on a request for accommodation of an alleged disability.
- *Trinity Lutheran Church of Columbia, Inc. v. Pauley*, 788 F.3d 779 (8th Cir. 2015) (cert. granted; to be argued April 19, 2017). The Eighth Circuit upheld Missouri’s constitutional provision barring the State from giving tax funds to churches.
- *Roper v. Simmons*, 543 U.S. 551 (2005). The Supreme Court upheld a challenge to the application of Missouri’s death penalty statute to a defendant who committed murder while under age 18.
- *Missouri Director of Revenue v. CoBank ACB*, 531 U.S. 316 (2001); On remand, *Production Credit Assoc. v. Director of Revenue*, 43 S.W.3d 311 (Mo. 2001). The U.S. Supreme Court reversed the Missouri Supreme Court’s holding that CoBank (formerly the National Bank for Cooperatives), whose establishing statute describes it is a “federal instrumentality,” could not be taxed by the State.
- *Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377 (2000). The Supreme Court upheld Missouri’s limits on the size of campaign contributions.
- *Southwestern Bell Telephone Company v. Director of Revenue*, 454 S.W.3d 871 (Mo. 2015). The Court upheld the Director of Revenue’s decision preventing Southwestern Bell from avoiding payment of Missouri’s franchise tax by converting its Missouri subsidiary from a corporation to a limited partnership with.
- *Conway v. CitiMortgage, Inc.*, 438 S.W.3d 410 (Mo. 2014) (amicus). The Supreme Court reversed a decision by the Missouri Court of Appeals, Eastern District, that barred use of Missouri’s consumer protection law to address deceptive and unfair practices by companies that buy and collect loans.
- *State ex rel. Saint Louis Charter School v. State Bd. of Educ.*, 438 S.W.3d 437 (Mo. Ct. App. W.D. 2014). The Court addressed the manner in which the Department of Elementary and Secondary Education must address financial disputes between a school district and a charter school.
- *Public Communications Services, Inc. v. Simmons*, 409 S.W.3d 538 (Mo. Ct. App. W.D. 2013). The Court rejected a challenge to the State’s contract for inmate telephone service, which included terms asking for innovative proposals by the bidders.
- *Schweich v. Nixon*, 408 S.W.3d 769 (Mo. 2013). The court upheld the authority of Missouri governors to restrict the use of appropriations in light of cashflow during a fiscal year.
- *Breitenfeld v. School Dist. of Clayton*, 399 S.W.3d 816 (Mo. 2013). The court rejected a claim that Missouri’s school transfer law, which applies to students in unaccredited districts, violates the “Hancock Amendment” as an “unfunded mandate” on school districts.
- *Southern Wine & Spirits of Am., Inc. v. Div. of Alcohol & Tobacco Control*, 731 F.3d 799 (8th Cir. 2013). The Court upheld Missouri’s bar on liquor wholesalers operating in Missouri without Missouri-resident owners and managers.
- *Degraffenreid v. State Bd. of Mediation*, 379 S.W.3d 171 (Mo. Ct. App. W.D. 2012). The Court upheld an election through which a union was certified to represent personal care attendants.



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- *Wright-Jones v. Nasheed*, 368 S.W.3d 157 (Mo. 2012); *Gray v. Taylor*, 368 S.W.3d 154 (Mo. 2012). Court upheld the ability of candidates for the Missouri House, immediately after redistricting that follows a decennial census, to run in districts that contain part of their former districts.
- *Manzara v. State*, 343 S.W.3d 656 (Mo. 2011). The Court upheld Missouri's "land assemblage tax credit law."
- *State v. Nationwide Life Ins. Co.*, 340 S.W.3d 161 (Mo. Ct. App. W.D. 2011). The Court reversed a decision with regard to actions taken by an insurance company that administrated a state employee annuity plan, alleging breach of contract. The result was the return of more than \$18 million, plus interest, from the company to the employees' retirement accounts.
- *School Dist. of Kan. City v. State Of Mo.*, 317 S.W.3d 599 (Mo., 2010). The Court upheld Missouri's charter school statute against a challenge from one of the two districts, based on the Hancock Amendment's bar on imposing new obligations on local government without a state appropriation.
- *Committee for Educational Equality v. State*, 294 S.W.3d 477 (Mo. 2009). The Court rejected a constitutional challenge to Missouri's "foundation formula" – the formula used to allocate state funds to local school districts.

### Publications and Presentations

- "Labor and Employment Law: What to Expect in 2021," Association of Corporate Counsel-St. Louis CLE, December 2020
- Annual Supplement, APPELLATE PRACTICE, MO. PRACT., Vol. 24 (2005-2020, West).
- "Oral Argument," Chapter 7, APPELLATE COURT PRACTICE (Mo. Bar 2002).
- "Appellate Court Jurisdiction," Chapter 3, EIGHTH CIRCUIT APPELLATE PRACTICE MANUAL (8th ed. 2018 and 9th ed (forthcoming); Minn. Bar CLE).
- "Direct Review of Administrative Agency Decisions", Chapter 17, EIGHTH CIRCUIT APPELLATE PRACTICE MANUAL (3d, 4th, 5th, and 6th eds.; Minn. Bar CLE).
- "Recent changes in Missouri's Appellate Rules," Journal of the Missouri Bar, Sept-Oct 2018.
- "Five Things Missouri Lawyers Should Know About the Missouri Constitution," Missouri Bar Administrative Law Committee, Nov. 2018
- "Contests re Noncontested Cases: Missouri Administrative Law and the MHRA after Tivol and SB43," Missouri Bar Labor and Employment Annual Seminar, Oct. 2018
- "Five Things Judges Should Know About the Missouri Constitution," Missouri Judges Appellate Forum, Columbia MO 2017
- "We Feel Your Pain: Tips on Appellate Practice for Solo or Small Firm Practitioners," Missouri Bar Solo & Small Firm Conference, Osage Beach MO 2017 (with Missouri Supreme Court judges Mary Russell and Zel Fischer)
- "The Leap from e-Filing to e-Briefing," Kansas Bar 2017 Appellate Practice CLE, Topeka KS 2017
- "The Evolving Role of the State Solicitor: Toward the Federal Model?" JOURNAL OF APPELLATE PRACTICE AND PROCESS (Fall 2001).
- "Legal Writing for the iPad Reader" and "Clear Paths to Effective Obfuscation in Legal Writing," Savannah GA, 2017; Las Vegas, NV and Little Rock, AR, 2016; Orlando, FL 2015; Portland OR, 2014.
- "The Missouri Constitution: History, Context, and Content," Missouri Attorney General's Office, Osage Beach, MO 2016.



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Missouri

- "What Weird AI Taught me About Legal Writing," Bar Association of Metropolitan St. Louis, St. Louis, MO, 2015.
- "View from the Podium," Missouri Bar Solo and Small Firm Conference, Osage Beach, MO, 2016.
- "Before the Brief: Issues in Appellate Advocacy," National Association of Attorneys General National Appellate Advocacy Seminar, Washington, DC, 2008, 2009, 2015, 2016.
- "Supreme Court of Missouri Update: Focus on Solo and Small Firm Cases" and "What Weird AI Taught me About Legal Writing," Missouri Bar Solo and Small Firm Conference, Branson, MO, 2015.
- "The Status of the Law Regarding Same-sex Marriage" and "Same-sex Marriage: Practical Issue," Missouri Bar Family Law Conference, Branson, MO, 2015.
- "Same-sex Marriage Cases," Missouri Bar Government Attorneys Committee, Jefferson City, MO, 2015; Missouri Attorney General's Office, Osage Beach, MO 2015.
- "A Tale of Two Attorneys: Appellate Advocacy," Missouri Bar Government Practice Institute, Jefferson City, MO 2015.
- National Deposition Training, National Attorneys General Research and Teaching Institute, Santa Fe, NM, 2015.
- Trial Training, National Attorneys General Research and Teaching Institute, Boston, MA 2015.
- "Horizontal Federalism: Regulating States," National Association of Attorneys General, Indianapolis IN, 2015.
- Deposition Training, National Attorneys General Research and Teaching Institute, Princeton, NJ 2011.
- Trial Skills Course, Missouri Attorney General's Office, Columbia MO 2011.
- "Clear Paths to Effective Obfuscation in Legal Writing," Mo Dept of Transportation General Counsel's Office, Jefferson City, MO 2011.
- "Ethical Issues in the Day of Social Media," Mo. Bar Young Lawyers' Division, Jefferson City, MO 2011.
- "Writing Successful Writ Petitions and Motions for Extraordinary Relief," Mo. Bar Solo and Small Firm Conference, Osage Beach MO 2011.
- "Discussion on the Constitutional Considerations of Inadequate Court Funding" American Academy of Appellate Lawyers, St. Paul, MN 2011.
- "Nuts And Bolts of Appellate Practice: Effective Motion and Writ Practice," Missouri Bar, St. Louis, Kansas City, and Springfield, 2011.
- "Please, Judge, Keep Reading.," National Academy of Elder Law Attorneys, Washington DC 2009.
- "History of State Solicitors and Solicitors General" Univ. of Texas Review of Litigation Annual Symposium, Austin, TX 2009.
- "Administrative Medicine: Companies Practicing Medicine," National Association of State Medical Boards, New Orleans, LA 2008.
- "Rule 4.2 and Corporations," Indianapolis, IN, 2008.
- "Annual Supreme Court Review," Missouri Bar teleconference, 2006, 2007, 2008.
- "2007 Changes to the Rules of Professional Conduct," Missouri Attorney General's Office, June 2007.
- "Appellate Practice: Briefs and Beyond," Missouri Attorney General's Office, Sept. 2008.



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U.S. Court of Appeals for the Ninth Circuit  
U.S. District Court for the Western District of Missouri

- "Searching for the Activist Judge: An Appellate Lawyer's Thoughts," J. Reuben Clark Law Society, St. Louis MO 2007.
- "Ethical Issues in Representing the Government," Missouri Bar Government Attorneys Committee, Jefferson City MO 2006.
- "Matching Advocacy to Audience: Differences Between Intermediate Appellate courts and Courts of Law Resort," Appellate Judges Education Institute, Scottsdale AZ 2006.
- "Taming the Monster Record: How to Manage the Voluminous Trial Record on Appeal," Appellate Judges Education Institute, Dallas TX 2006.

